

DEPARTMENT OF COMMERCE

MARINE PROTECTED AREAS FEDERAL ADVISORY COMMITTEE

Tuesday, May 17, 2005

8:30 a.m. - 5:00 p.m.

Doubletree Hotel
Portland, Maine

PARTICIPANTS:

Marine Protected Areas Federal Advisory Committee:

Dr. Tundi Agardy
Sound Seas

Robert Bendick
The Nature Conservancy

David Benton
Commercial Fishing

Dr. Daniel Bromley
University of Wisconsin, Chair of FAC

Dr. Anthony Chatwin
The Nature Conservancy

Dr. Michael Cruickshank
Marine Minerals Technology Center Associates

Dr. Rod Fujita
Environmental Defense

Dr. Delores Garza
University of Alaska

Eric Gilman
National Audubon Society

Dr. John Halsey
Michigan Department of State

Dr. Mark Hixon
University of Oregon

George Lapointe
Maine Department of Marine Resources

Dr. Bonnie McCay
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Mel Moon
Quileute Natural Resources Department

Dr. Steven Murray
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PARTICIPANTS (CONTINUED):

Michael Nussman
American Sportfishing Association

Terry O'Halloran
Recreation Industry (Hawaii)

Dr. John Ogden
Fl. Institute of Oceanography, Univ. of South Florida

Dr. Walter Pereyra
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Gil Radonski
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Dr. James Ray
Oceanic Environmental Solutions, LLC

Barbara Stevenson
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Kay Williams
Gulf of Mexico Fishery Management Council

Robert Zales, II
Recreational Fishing

Federal Ex-Officio Representatives
Marine Protected Areas Federal Advisory Committee:

Tom Kitsos
Department of Commerce

Larry Maloney
Department of the Interior

Dr. Brian Melzian
Environmental Protection Agency

Jacqueline Schafer
U.S. Agency for International Development

PARTICIPANTS (CONTINUED):

Other Participants:

Bob Fletcher
Sportfishing Association of California

Bob Hayes
Coastal Conservation Association

Leslie Ann McGee
EFH/MPA Program

Heidi Recksiek
National MPA Center

Joseph Uravitch
National MPA Center

Dr. Charles Wahle
National MPA Center

Bobbi Walker
National Association of Charterboat Operators

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MS. WENZEL: Good morning. I am Lauren Wenzel. I am the designated federal official for the Marine Protected Areas Federal Advisory Committee and I am pleased to open the meeting and to turn it over to our chair, Dan Bromley.

DR. BROMLEY: Thank you, Lauren. How nice to be in Maine. We are delighted to bring our show to George's backyard and Barbara's backyard and -- where is Barbara. Is she here? All right. It is Alison Reezer's backyard too. Wonderful.

Let me say -- I want to call attention to two people. We are so happy to have Kay Williams with us.

Kay, it is wonderful to have you here. And Tom Kitsos. I must acknowledge Tom who is executive director of the Ocean Studies Commission and is sitting in for Mary Glackin today. Tom, welcome. There are others. I am sorry if I picked out a few, but these were important.

Everybody sign in. Are you having trouble hearing in the back? Is this better? Yes. Maybe we -- I can see spending three days asking people to

1 get closer to the microphone like George LaPointe.
2 Maybe we can get a little more volume out of the
3 machine so George can sit back and talk from a
4 distance.

5 All right. The minutes from the February
6 meeting, Lauren, are they in the process of being
7 produced?

8 MS. WENZEL: They are being copied.

9 DR. BROMLEY: They are being copied. We may
10 just approve them tomorrow morning as our first order
11 of business. So that part of it we will skip.

12 Let me just say a few comments about the
13 meeting today, explain something, and then I would like
14 to go over the agenda before we turn it over to the
15 9:00 panel. This meeting is, as you all know, the one
16 where we finally see if we can reach agreement on the
17 written material in your packet and this, in a sense,
18 is where it all comes together, it is going to come
19 together, and it is our fervent hope that it will come
20 together.

21 That is, in a sense, the substantive business
22 that we have. We will talk a bit about the future, but

1 our purpose really here this three-day period is to
2 approve, to the extent possible, the document that has
3 been underway for at least a year.

4 We would like to explain one agenda item,
5 which those of you that have good memories about our
6 meeting in February might have been surprised to see,
7 and that is a panel on sportfishing. At the end of the
8 February meeting, you may recall that there were some
9 expressions of concern that we had not given adequate
10 hearing to sportfishing interests.

11 After we left Washington, I received some
12 private correspondence from people on the Committee
13 expressing grave concern that some of our members were
14 upset at that oversight. So I made a decision to
15 address that grievance and asked that a subcommittee
16 put together a panel on sportfishing for inclusion in
17 this meeting. So that is the reason for this inclusion
18 in your agenda, which I am now prepared to talk about.

19 At 9:00, we are going to hear from the last
20 two of our Fisheries Management Councils'
21 representatives to hear what the councils is doing with
22 MPA-related activities and George LaPointe will preside

1 over that and introduce the speakers.

2 We will have a break, we will have the
3 sportfishing panel at 10:15. Bob Zales will moderate
4 that and there is a change on the participation of it,
5 but that is -- that will be explained at the time. At
6 11:45 today is when we will begin our discussion about
7 the approval of the report, the document in front of
8 you, and at that time I will explain, in greater
9 detail, how I propose to carry out that activity.

10 We will have lunch here in the hotel. Lauren,
11 do we know where or do we want to wait on that? What
12 is --

13 MS. WENZEL: It will be right across the
14 hall --

15 DR. BROMLEY: Right across the hall.

16 MS. WENZEL: -- in the restaurant.

17 DR. BROMLEY: Where I think -- oh. Oh, in the
18 restaurant.

19 MS. WENZEL: There is a door to the restaurant
20 right across the hall.

21 DR. BROMLEY: I see. Okay. Good. We will
22 have more time this afternoon for discussing of the

1 document, we will have a break. Our public comment
2 period is at 3:45. We adjourn at 5:00 and then the
3 Committee is having dinner this evening. Do we know
4 where, Lauren, at 7:00?

5 MS. WENZEL: Yes. We have a reservation at
6 the Sea Grill, which is downtown.

7 DR. BROMLEY: Okay.

8 MS. WENZEL: And actually, I did want to get a
9 sort of level of interest. Can people just raise their
10 hands if they are planning on going to dinner. I tell
11 you what. I am going to send around a sheet of paper.

12 DR. BROMLEY: Yes.

13 MS. WENZEL: That will be good.

14 DR. BROMLEY: Okay. Yes, we will get
15 directions to get you there this evening at 7:00. So
16 in the morning, then, we will have about three hours,
17 three-and-a-half hours or three hours and twenty-five
18 minutes for a continuing discussion of the document.
19 At 11:30, we have a tour of the Portland Fish Exchange,
20 as you have seen, and before we go, Barbara Stevenson
21 will explain a bit to us about it.

22 Lunch is on your own. There are lots of

1 places in the neighborhood to have lunch. We will
2 convene back here at 1:30 tomorrow. We adjourn at
3 5:00. There is a reception tomorrow evening, 5:30 to
4 7:30, the information is in your packets. We will have
5 more information for you on that tomorrow.

6 Thursday we will have another public comment
7 period. We will finalize the document review if we
8 haven't done so already. We will have a discussion of
9 the next charge. In a general sense, Joe will help us
10 think about that. We don't have any official role to
11 play in that at this stage, but we will have a
12 conversation about it. We will have a discussion about
13 the future organization of our committee and should be
14 able to adjourn at 5:00.

15 So I guess I want to ask Joe to make a few
16 comments at this point, if you would, please, Joe.

17 MR. URAVITCH: Okay. Thank you, Dan.

18 I just wanted to take a time, since this is
19 the last official convening of the Advisory Committee,
20 and I will do it again at the end of the meeting, but
21 just to thank everybody for all the hard work they have
22 been doing to try and help us work and think through

1 these issues that are important to all of us.

2 And I also wanted to give some special thanks
3 to a number of the Committee members who have been
4 helpful to us throughout the past couple of years at
5 interagency meetings, state meetings, public meetings,
6 presenting the work of the Committee, helping us
7 identify people we should be talking to and generally
8 helping us reach out to the communities that are
9 interested in what we are doing. And I just thought it
10 was appropriate to acknowledge all the help that the
11 people have given us. And I just wanted, on behalf of
12 the MPA Center, and NOAA and the Department of your
13 Interior, to thank you for your help.

14 Oh, the other thing I did want to acknowledge
15 is that obviously we have had a limited amount of time,
16 over the past two years, through the meetings we have
17 had to really hear from every group, every
18 organization, every institution that does have an
19 interest in these issues and so for those that we have
20 not yet reached out to or heard from sufficiently,
21 hopefully we will be able to do that as we move into
22 the next incarnation of this committee. This is really

1 helping us start the process, we are a long way from
2 ending, and so we look forward to working for you and
3 the folks we have not yet heard from as we proceed in
4 this process.

5 DR. BROMLEY: Good. Thank you, Joe.

6 Okay. Well, we are ahead of schedule.

7 George, are you ready to do your 9:00 panel?

8 MR. LAPOINTE: Wow, you are really close to
9 the mike. We appreciate this.

10 DR. BROMLEY: Wipe the slobber off will you,
11 Joe, when you are finished.

12 (Laughter.)

13 MR. LAPOINTE: Thank you and I am glad to see
14 everybody here. I wish it was a little warmer and
15 dryer, but welcome to Maine in May.

16 DR. BROMLEY: It wouldn't be a Maine if it
17 were warmer and dryer, George.

18 MR. LAPOINTE: It would be, actually.

19 DR. BROMLEY: Okay.

20 MR. LAPOINTE: It would be really nice too,
21 but it is not. So that is the way it is.

22 I am going to start this -- before I introduce the

1 panel members, you know I have been kind of a
2 curmudgeon about panels this late in the process and
3 about a week ago, Mr. Chairman, I came to you can
4 either call it an epiphany or a rationalization about
5 the value of panels for us and for this MPA effort at
6 the national level and it is not to help us finish the
7 report on Thursday, because that is largely cast in
8 stone, but we are a springboard to the next level of
9 effort for implementation and that is the value of the
10 panels, I think, in providing a record for whoever
11 takes the next step to implement this policy as best we
12 can.

13 I have, in one of my many incarnations of my
14 professional career, been -- had the pleasure and the
15 burden of being a member of three of the Fishery
16 Management Councils, all three on the east coast, and I
17 know the passion and the commitment those council
18 members have to their job of managing fisheries and
19 trying to fit that in the context of ocean management.

20 And so I am pleased that we have a couple of our
21 councils represented here, the last two to give us
22 their perspectives.

1 Our first presenters is Bobbi Walker. She is
2 a member and former chair of the Gulf Council. She
3 hails from Alabama and she comes from the charterboat
4 sector and so with no further ado, Bobbi, you are on.

5 MS. WALKER: Thank you. I want to thank you
6 for allowing the Gulf of Mexico Fishery Management
7 Council to be here today and give you some of our
8 perspectives that we are doing in the Gulf of Mexico.

9 The Gulf of Mexico Fishery Management Council
10 encompasses five states: Florida, Alabama, Mississippi,
11 Louisiana and Texas. We have 1,631 miles of coast,
12 that is 186,200 nautical miles in our EEZ, we manage 69
13 species and 6 fishery management plans and 330 species
14 in the coral fishery management plans. Approximately
15 700 species are harvested in state and federal waters
16 combined. The economic value of our fisheries are \$800
17 million for our commercial dockside value and \$8.1
18 billion for the recreational sector.

19 Our physical environment includes temperate to
20 tropical ecosystems. Half of all wetlands in the
21 United States are located here. We have 3,900 square
22 miles of sea grasses, we have broad shelves 124 miles

1 wide. We also have the Mississippi River and coral
2 reef.

3 We have put into place gear restrictions.
4 These are recent management tools that we have done,
5 MPA's that we have set up. We have the Tortugas
6 Closure, the Longline Closure and the Texas Closure. I
7 am going to go through some of this stuff.

8 The Cooperative Texas Shrimp Closure is a
9 shrimp nursery ground off Texas, cooperatively closed
10 under the shrimp fishery management plan in 1981 by the
11 Council and the State of Texas. It lasts from 45 to 60
12 days and it has been out to either 15 or 200 miles and
13 it results in shrimp growing to about 39 count a pound.
14 It is 5,475 square nautical miles.

15 While the primary emphasis for the closure was
16 to allow the juvenile shrimp to grow to a larger size
17 before harvest, it also has secondary benefits by
18 preventing some mortality on bycatch species from
19 trawling that would have occurred. To enhance
20 enforceability, we use aircraft and the closure usually
21 extends 200 miles offshore. The benefits to the
22 shrimping industry to the closure have been documented

1 annually since 1981.

2 The Tortugas shrimp sanctuary is a shrimp
3 nursery ground in the Florida Keys and it has been
4 permanently closed since 1981 to the use of trawls and
5 harvests or possession of shrimp. Results in this
6 closed area are 47 count pound shrimp before they are
7 harvested. The geographical extent of the sanctuary
8 was determined by years of sampling shrimp to determine
9 their size by season by the University of Miami.

10 In most years when they migrate across the
11 boundary, the shrimp have reached legal size, which is
12 47 count. The sanctuary has been closed to shrimp
13 trawl for more than 30 years; therefore, most of the
14 bottom is covered with life bottom organisms such as
15 sponges and algae. Not only is it an important nursery
16 for pink shrimp, but also for larvae of the spiny
17 lobster as they settle out from their plankton.

18 The Longline Buoy Closure, this is a closure
19 of the central and western gulf to longline and buoy
20 gear inshore 50 fathoms and it was done to protect the
21 larger red snapper spawning population. The observer
22 study that was done in 1983 indicated for the western

1 gulf 95 percent of the red snapper landed and 56
2 percent of all the fish landed from longline vessels
3 were red snapper greater than 14 pounds average weight.

4 These larger red snapper were so sparsely distributed
5 that harvests by bandit rigs was usually not
6 productive.

7 Closure of the eastern gulf to 20 fathoms was
8 largely to reduce the number of undersized grouper that
9 were hooked since the predominance of undersized fish
10 was much greater in waters shallower than 20 fathoms.

11 The 20 fathom boundary of the closed area would
12 prohibit longlining in the area most recreational
13 fishermen used reducing the potential for conflict. So
14 from Cape Sand Blast, which is the point there in
15 Florida, east it is a 20 fathom boundary and it is a 50
16 fathom boundary west from Cape Sand Blast all the way
17 to Brownsville, Texas.

18 The next thing we did was we closed two areas
19 for a spawning site of gag grouper. And it was the
20 Madison Swanson and the Steamboat Lumps. These were no
21 take marine reserves and they were established by an
22 August 1999 reef fish regulatory amendment and cited on

1 gag group spawning aggregations.

2 These marine reserves, which were established
3 for four years while they were evaluated, should be
4 considered as habitat areas of particular concern. The
5 prohibition on fishing will protect the critical life
6 history stage of spawning for gag grouper and scamp,
7 both of which aggregates spawn in these areas. When
8 the fish are aggregated, they are more easily exploited
9 by fishermen. The gag stop was being subjected to over
10 fishing. So that was one of the reasons that we closed
11 this.

12 The next thing we did was identify habitat
13 areas of particular concern and that totals 1,650
14 square nautical miles. The Florida middle ground is a
15 pristine coral area protected by the Coral FMP since
16 1984 by preventing the use of any fishing gear
17 interfacing with the bottom and it is 348 square miles.

18 It consists at the topographical highs in the general
19 area called the middle grounds.

20 Although the area has some hard coral, it is
21 predominantly covered with soft coral. It supports a
22 large assemblage of fishes associated with live bottom.

1 Before its designation as an HAPC, shrimp vessels
2 periodically fished some areas of the reef complex.
3 All but three of these were already under the protected
4 rules of federal or state agencies. The Flower Garden
5 Banks, Florida middle grounds and Oculina Banks were
6 established as HAPC's under an FMP rule. Three other
7 areas were considered, but not named as HAPC's.

8 And then right now the Council is working on
9 Pulley Ridge. We received -- at one of our council
10 meetings, they did some underwater photography and it
11 was -- the corals that were there were tropical from
12 the Caribbean and we couldn't believe at that depth of
13 water that they were growing, but apparently, the water
14 is so clear. So we are right now in the process of
15 putting in protection for the Pulley Ridge area. And
16 here are some other areas that are under consideration
17 as habitat areas of particular concern.

18 The future directions being considered by the
19 Council are ecosystem management. We have also
20 implemented SEDAR to improve our assessments. We
21 continue the use of traditional management tools, such
22 as size limits, bag limits, strip limits and quotas.

1 We are reviewing the use of ISP programs in the
2 commercial fishery. We are considering additional
3 habitat areas of particular concerns in MPA's in the
4 Gulf and we are developing additional strategies to
5 reduce bycatch and bycatch mortality.

6 These are the HAPC's that were established
7 regulating gear in January of '05 of this year. Pulley
8 Ridge, which I told you about earlier, and it is the
9 northernmost and deepest pristine area with coral
10 characteristics of the Carribean sea. The Stetson
11 Bank, McGrail Bank and east and west Flower Garden
12 Banks, they are deep water pinnacles off of Texas and
13 the Louisiana shelf and we are not allowing any
14 shrimping there and also no anchoring.

15 Okay. Now these are proposed actions to
16 minimize adverse affects on fishing on EFA on Pulley
17 Ridge and the Tortugas Ecological Reserves. I wanted
18 to tell you a little about them. I think I have got
19 something, yes, right here.

20 The Tortugas north and south marine reserves
21 are no take marine reserves cooperatively implemented
22 in 2001 by the State of Florida NOA, the Council and

1 National Park Service. They encompass 185 square
2 nautical miles. These marine reserves should be
3 considered HAPC's, especially Tortugas south, which
4 encompasses Riley's Hump. Riley's Hump is a pinnacle
5 with relatively pristine coral formations and with the
6 last known spawning aggregation site for mutton snapper
7 in the Gulf.

8 All fishing was prohibited in 1994 on Riley's
9 Hump during May and June, which were the peak spawning
10 months for mutton snapper. Tortugas north marine
11 reserve is sited on the northeast portion of Tortugas
12 Bank, which was listed in the coral FMP in 1984 as a
13 potential HAPC.

14 Both areas are important spawning sites for
15 the grouper, especially black, red, gag, Nassau, yellow
16 fin and the scamp and huns which are considered by all
17 to be locally subject to over fishing. Snapper
18 observed as using the areas for spawning included gray,
19 mutton, cubera, yellowtail and dog.

20 And these are some more areas that the Council
21 is looking at for HAPC designation.

22 And here is where we eliminated anchoring and

1 trawling in the McGrail and the east Flower Garden Bank
2 and the west Flower Garden Bank off Texas. That is it.

3 MR. LAPOINTE: Thanks, Bobbi.

4 Any questions for Bobbi?

5 MR. LAPOINTE: We will start with Jim and then
6 go to Rod.

7 DR. RAY: I just had one question. With
8 regards to areas that are already Federal marine
9 sanctuaries, aren't there any protected by regulation;
10 for example, Flower Garden Marine Sanctuary in Stetson
11 Bank?

12 MS. WALKER: Well, they were, but the Council
13 has worked in cooperation with them as a state.

14 DR. RAY: Okay.

15 MS. WALKER: So it has helped enhance it.

16 DR. FUJITA: Thanks, Bobbi, for that
17 presentation. I think you mentioned that some of these
18 longer term closures resulted in lots of coral and
19 sponge on the bottom and that implies good nursery
20 habitat.

21 MS. WALKER: Yes.

22 DR. FUJITA: Have you collected -- has the

1 Council collected some empirical evidence on that? We
2 are having trouble finding data on that phenomena for
3 the west coast.

4 MS. WALKER: I think they are doing -- they
5 have been doing some underground filming in the
6 Tortugas, but that information should be available to
7 you.

8 MR. LAPOINTE: Mike?

9 DR. CRUICKSHANK: I wonder do you have a
10 problem with interfacing with the Marine Minerals
11 Management Service on the oil and gas areas?

12 MS. WALKER: No, we have not.

13 DR. CRUICKSHANK: How do you deal with that?

14 MS. WALKER: Well, right now we are dealing
15 with, and I am not sure if any of you have heard about
16 them, LNG open loop systems. Have any of you heard
17 anything about them? The Gulf of Mexico right now, we
18 have eight proposed LNG facilities that are open loop.
19 They suck in more than a million gallons of water and
20 of course they entrap fish eggs, larvae, all kinds of
21 organisms.

22 The Council, along with other entities in the

1 Gulf, have been fighting these because they feel like
2 the closed loop system is available and yes, it will --
3 it may cost a little bit more, but you don't endanger
4 marine life. And right now one has been approved,
5 which is off of Louisiana, and we heard yesterday the
6 one that was 11 miles south of Alabama that was up for
7 approval, they have put it on hold. So the Council
8 keeps -- we keep digging all the time trying to fight
9 these open loop systems.

10 DR. CRUICKSHANK: Thank you.

11 MR. LAPOINTE: Other questions?

12 MR. RADONSKI: I would just like to make it
13 clear the Minerals Management Service is not permitting
14 the LNG facilities. That is --

15 MS. WALKER: No, they are not.

16 MR. LAPOINTE: Sensitive subject everywhere.

17 Mr. Chairman.

18 DR. BROMLEY: Bobbi, could you go back to your
19 first slide I believe. Economic value. I am
20 interested in the bottom line literally there.

21 MS. WALKER: Okay.

22 DR. BROMLEY: Eight hundred million commercial

1 dockside. So this is -- that is the value of
2 commercial landing.

3 MS. WALKER: Yes, it is.

4 DR. BROMLEY: And upon what is the 8.1
5 billion --

6 MS. WALKER: It was done through the consensus
7 report that is done annually. I think it was done by
8 ASA.

9 DR. BROMLEY: So that represents all of the
10 expenditures of recreational fisherman --

11 MS. WALKER: Exactly.

12 DR. BROMLEY: -- and fisherpersons, fishers.

13 MS. WALKER: Hotels, motels, tackle, bait,
14 vessels.

15 DR. BROMLEY: From the time they leave home.

16 MS. WALKER: Right.

17 DR. BROMLEY: Is this correct?

18 MS. WALKER: Yes.

19 DR. BROMLEY: Good. Thank you.

20 MR. LAPOINTE: John.

21 DR. HALSEY: Is that just fishing? Does that
22 exclude recreational diving or any other --

1 MS. WALKER: I think that is just fishing, but
2 I can't answer that.

3 DR. BROMLEY: Mr. Nussman.

4 MR. NUSSMAN: The ASA woke me up there.

5 DR. BROMLEY: If that is all it takes, we will
6 stop using that acronym.

7 MR. NUSSMAN: Very good. I would appreciate
8 that.

9 (Laughter.)

10 MR. NUSSMAN: Those numbers actually, and I am
11 not exactly familiar with that number, at least this
12 early in the morning, but the work was done by the
13 National Marine Fishery Service, the economics folks,
14 the economic program there. I think we publicized it
15 in, you know, Bang The Gong, but it is -- even the
16 Bureau of Census or the economic folks at the
17 Department of Commerce did that.

18 DR. BROMLEY: Yes.

19 MS. WALKER: It was, Mike, but I don't know
20 that I remember reading anything in the report about
21 diving being included. I am sure it wasn't.

22 MR. NUSSMAN: No, diving was not included.

1 MS. WALKER: I didn't think so.

2 MR. NUSSMAN: That does include all
3 expenditures from, you know, boats, gas, you name it,
4 from recreational fishing.

5 MR. LAPOINTE: Barbara Stevenson.

6 MS. STEVENSON: Yes, well until somebody asked
7 a question about this I was just going to let it go,
8 but obviously these are not equivalent economic
9 indicators, but the question that I had previously is
10 in a number of points, you said this should be
11 considered an HAPC. Does that mean that it has been
12 designated by the Council as an HAPC?

13 MS. WALKER: Yes, several of them have. We
14 have gone through an EFH amendment where we have
15 designated areas as HAPC.

16 MS. STEVENSON: Okay. So all the ones that
17 you said this should be treated like an HAPC are
18 actually designated as HAPC's.

19 MS. WALKER: Yes.

20 MS. STEVENSON: Okay. Thank you.

21 MR. LAPOINTE: Thank you. Other questions?

22 I had a question, Bobbi. One of my big

1 questions about the designation of habitat areas,
2 regardless of their title, is enforcement. Can you
3 tell me what your experience is in the Gulf about
4 enforcement of those areas?

5 MS. WALKER: We have had some major problems
6 with enforcement. The Madison Swanson Closure that I
7 showed you earlier that we have closed for the spawning
8 of gag grouper, we have had various -- at various times
9 several longline vessels caught in there. We have even
10 had recreational vessels caught in there.

11 We have only got like eight or nine NOAA
12 agency officers through the entire Gulf of Mexico.
13 Enforcement is a major problem for us when you close an
14 area for any purpose in the Gulf of Mexico. You can't
15 exactly put a fence around it and we can't have boats
16 just sitting out there. So enforcement has been a
17 major problem with us.

18 MR. LAPOINTE: Thank you.

19 Mike Nussman and then Rod again.

20 MR. NUSSMAN: Following up on that same issue,
21 with regard to Coast Guard, have they provided any
22 assistance and looking at the way their mission, or at

1 least they are interpreting their mission having
2 changed, are you seeing any, you know, dynamics there?

3 MS. WALKER: The Coast Guard, prior to going
4 under Homeland Security, we probably had more
5 enforcement from them, but I think their plate is full
6 now since they went under Homeland Security, but they
7 do still enforce our regulations when they can. The
8 states have also cooperatively, they contract with NMFS
9 to enforce our regulations also, but it is a tough job.
10 That is a big gulf and it is hard to supply
11 enforcement with the money.

12 DR. MCCAY: In that vein, has there been a
13 development of any kind of voluntary assistance for
14 enforcement?

15 MS. WALKER: Well, we have 800 numbers where
16 we ask when people are out on the water if they see
17 violations to please call in. That works some, but it
18 is very limited.

19 DR. FUJITA: Also on this topic, I was
20 wondering is there a potential for vessel monitoring
21 systems to help here as it has in other cases of kind
22 of remote closures?

1 MS. WALKER: Right. The Council is looking at
2 VMS's right now on shrimp boats, commercial boats and
3 charterboats. We are looking at requiring them on all
4 those vessels, which will help.

5 MR. LAPOINTE: Other questions?

6 (No response.)

7 MR. LAPOINTE: Thanks very much, Bobbi.

8 MS. WALKER: Thank you.

9 DR. BROMLEY: Thank you, Bobbi.

10 (Applause.)

11 MR. LAPOINTE: Our next speaker is a staff
12 member at the New England Council, Leslie Ann McGee.
13 She is the EFH and MPA program manager and she is going
14 to give the New England Council perspective on MPA's.
15 Welcome.

16 MS. MCGEE: Again, my name is Leslie Ann
17 McGee. I work for the New England Fishery Management
18 Council. I have been on staff with the Council for
19 five years now. I have had the good fortune of working
20 with Barbara Stevenson and George LaPointe on a number
21 of issues over the years and I will defer a lot of the
22 detailed questions probably to Barbara because she has

1 probably the most historical knowledge along these
2 fisheries. But my presentation is a little bit more
3 specific to what is going on in our region on a vessel
4 by vessel basis. So I hope that will generate some
5 questions.

6 I have been asked to give a presentation to
7 you about MPA's in New England. As you all know, MPA's
8 aren't just for fishing. In our opinion, a
9 comprehensive MPA should address all activities with
10 the potential to adversely affect the marine
11 biodiversity, fish populations and habitat. However,
12 given that said, there has only been narrow authority
13 granted to the Council for the National Marine Fishery
14 Service to regulate only commercial and recreational
15 fishing.

16 Obviously other concerns include sand and
17 gravel mining, ocean dumping, oil, gas and mineral
18 exploration, extraction, channel dredging, dredge
19 material disposal, pipeline cable installation,
20 pollution when energy facilities, which is our new
21 concern in the northeast region, with our -- some call
22 it a wind farm. We kind of refer to it as a wind city,

1 a hundred thirty turbines that are over four hundred
2 feet tall in Nantucket Sound that is proposed. The
3 control and regulation of these activities is critical
4 to the overall success of any proposed MPA.

5 The New England Council has many management
6 areas which meet various IUCN criteria for an MPA. I
7 will show you some of the pictures of these things.
8 Specifically close the areas to protect essential fish
9 habitat, groundfish and scallop fisher management
10 planned closed areas, gear restricted areas, scallop
11 rotational access areas and the list goes on and on and
12 on.

13 To illustrate this via pictures, I thought
14 that I might walk you through a little bit of the
15 progression of our fishery management related
16 place-based management or MPA's in this region. This is
17 roughly chronological. Some of the MPA's that I will
18 post were adopted pre Madison Act and their boundaries
19 have changed slightly. And so some of the purposes
20 have changed.

21 For instance, the first ones are closed area
22 one and two on Georges Bank. They were initially

1 passed in 1969 by ICMNAF, which is the International
2 Commission for the Management of North Atlantic
3 Fisheries, and they originally spawn inhabit closures
4 and their boundaries have changed slightly over time.

5 This is your hundred fathom. Then of course
6 of the advent of the restricted management areas. We
7 have the southern New England, Mid-Atlantic and Gulf of
8 Maine lines that start to be drawn. We have the
9 Nantucket light ship closed area right here. These are
10 all still in existence.

11 The boundaries of closed area one and two
12 changed slightly over time and their purposes changed.

13 We have restricted gear areas in the regions, then we
14 have the advent of our Jeffries Ledge in our Stellwagon
15 Bank square mesh areas here. The Hudson Canyon closed
16 areas, the Virginia Beach closed areas for scallop
17 regulation. We have an inshore restricted roller gear
18 area here, which restricts roller gear to 12 inches
19 maximum.

20 We have small mesh areas, one to two added to
21 the pile of things going on. A cultivator shoal small
22 mesh area. It starts to get a little complicated.

1 Dogfish exemption area. Then we have the advent of
2 what we call our rolling closures. These are closures
3 that roll up the coast month by month every year. So
4 they can be considered permanent roll enclosures in
5 that they occur every year for a couple of months.
6 They start here and they roll up the coast.

7 We have our western Gulf of Maine closed area
8 that we established in 1998. It was originally closed
9 to all gear capable of catching groundfish. It was a
10 temporary closure that was supposed to last two or
11 three years. In Amendment 13, last year it became a
12 permanent or a year round closed area meaning there is
13 no sunset provision.

14 Then we have our herring management areas. We
15 have our monkfish management line, which divides our
16 management of monkfish from the northern fishery
17 management area to the southern fishery management
18 area. We have a Cashes Ledge closure right here, which
19 is a seasonal closure here capable of catching
20 groundfish. In Amendment 13, now it is a permanent
21 year round closed area.

22 Then we have the advent of our habitat closed

1 areas. These are closed areas specifically to minimize
2 the adverse effects on fishing on essential fish
3 habitat. They are the western Gulf of Maine, Jeffries,
4 Cashes, parts of closed area one, an HAPC that we
5 initiated back in 1998, and closed area two is now a
6 year round habitat closed area, as is a big portion of
7 the Nantucket light ship closed area north. These are
8 areas that are closed to all bottom tending mobile gear
9 indefinitely to protect habitat.

10 Then we have our scallop rotational management
11 areas that we just implemented, the open and closed.
12 They are sort of like the concept of letting a field
13 lie fallow for a number of years and reopening it. So
14 they are open and closed on three-year intervals
15 approximately. It is a very complex document, right,
16 Barbara?

17 MS. STEVENSON: Yes.

18 MS. MCGEE: We have our -- then with the
19 advent of some of our stocks rebuilding, we want to
20 access some of our stocks that we are not as concerned
21 about like haddock. So then we started allowing these
22 things called SAP's, which are special access programs,

1 back into some of our closed areas to target haddock
2 and yellowtail founder. Now we have the US-Canada
3 Resource Sharing Agreement area where we actually try
4 to manage cod, haddock and yellowtails with the
5 Canadians.

6 We have our two -- our newest closed areas are
7 the Oceanographer and Lydonia Canyon closed areas.
8 They were closed under the monkfish fishery management
9 plan to minimize adverse effects on the EFH;
10 specifically, they are to protect deep water corals.

11 So you start to get the picture that the
12 area-based fisheries management in New England is quite
13 a complex picture. It certainly was done on a problem
14 by problem basis and not really any strategic planning
15 and it has evolved over time, meaning that some of
16 these areas were originally enacted to do one thing and
17 in reality, they actually have -- they serve different
18 purposes now or that they were initially enacted to
19 serve a purpose that they don't serve at all and that
20 has not really been changed for one reason or another.

21 An interesting case study is the Western Bank
22 closed area, which was the result of a lot of

1 negotiations with a lot of stakeholders as to what the
2 boundaries would be and some a little bit more east,
3 some of them more west and this is what we ended up
4 with. It was just to be a temporary closure and now it
5 is an indefinite closure.

6 With the advent of all of these marine
7 protected areas in our region, specifically gear
8 managing fisheries, you can see some spatial
9 distribution in fishing efforts and how they change
10 based on some of these closures. I have done a very
11 simplistic analysis, the Northeast Fishery Science
12 Center did this analysis, and provided it to us.

13 So what we did is we looked at satellite
14 tracking of fishing vessels. We had vessel monitoring
15 systems in the region. Although we have them largely
16 for large boats, boats that are over a hundred gross
17 registered tons, we look at them when their vessel
18 speed on the VMS is about three-and-a-half knots or
19 less than three-and-a-half knots. We assume that that
20 is actually when they are actively fishing or trawling.
21 And then the observations are done at one hour
22 intervals. They sort of ping the vessels at one hour

1 intervals.

2 So what I did is I just took the older
3 groundfish closed areas and wanted to show you a little
4 bit about how the fleet sort of meanders around the
5 closed areas and changes their fishing patterns based
6 on these closed areas.

7 So looking at the concentrations around the
8 boundaries and the ships in effort to a response in the
9 seasonal closures, you will notice that in our New
10 England office, which I will show you in a second, we
11 actually enclose the restricted area and the rolling
12 closures to them. So this was done starting in October
13 of 2002 and it goes all the way through October of
14 2003.

15 So as you can see, the fleet sort of gears
16 itself obviously where it can and can't fish. Most of
17 these closed areas are closed to all gears capable of
18 catching groundfish and now a good portion of them, as
19 I read this analysis, are closed to all bottom tending
20 mobile gear. Some of those gears are not capable of
21 catching groundfish, but because it is a habitat
22 closure, it is closed to them as well.

1 And so this was a seasonal closure and now it
2 is a year round closure. There is also some more
3 closures up here. So it is a very specific analysis
4 and only actually contains a small portion of our fleet
5 because, you know, we have a very mixed fleet, from
6 small boat to large boats, and this largely takes into
7 account the larger vessels who have been using VMS.

8 I did print all the data I stated together so
9 you can see how there sort of the edge effects of
10 fishing just to the west of closed area two and it is
11 interesting that just to the west of our habitat area,
12 a particular concern all the way around the edges of
13 closed area one, and obviously it is really close to
14 the western Gulf of Maine closed area.

15 I thought I would focus in specifically on the
16 catch rates. As you can see, there is obviously
17 spillover effects from this particular closed area.
18 You can see the high concentration of habitats is right
19 on the outskirts of the closed area there. The fleet
20 is setting up waiting for the fish that spill out of
21 the closed areas and in fact they do.

22 Beginning in 1994, the Council increased its

1 use and reliance on closed areas as a management tool
2 to enhance rebuilding its habitat. In 1994, we
3 implemented Amendment 5 to groundfish FMP. The
4 Council's closed areas on Georges Bank and in the Gulf
5 of Maine have contributed to stock rebuilding.

6 We can't just say that this one management
7 tool has resulted in stock rebuilding. It is a
8 combination of effort reductions of groundfish fishery
9 has reduced efforts by over 50 percent in the last 10
10 years. There are gear restrictions now and other
11 measures. And as a result, stocks are showing
12 remarkable recovery. Some stocks are showing more
13 recovery than others.

14 Of course, additional research is encouraged
15 to quantify the effectiveness of closed areas as a
16 management tool. This is some of the rebuilding of the
17 scallop biomass that we have seen largely as a result
18 of some of the closed areas. When we implemented them,
19 the closed areas, we combined the -- which is the dark
20 number -- the scallops has gone off the charts. The
21 scallop fishery is doing very well.

22 The Gulf of Maine groundfish rebuilding is a

1 little bit of a different story. We have seen recovery
2 of our groundfish complex in the Gulf of Maine is
3 largely attributed to red fish. We have seen some cod
4 rebuilding.

5 Georges Bank groundfish, these are our species
6 here: winter flounder, yellowtail, haddock and cod. We
7 have seen a lot of growth. It is largely as a result
8 of our haddock and our yellowtail. We are still having
9 a significant problem for cod.

10 MPA's in fisheries management. Closed and
11 restricted areas are important elements, obviously, of
12 most fishery management programs in the northeast. The
13 continued use of closed areas and restricted areas
14 demonstrate that the concept of an MPA is not new to
15 fisheries managers and what may be new to some is the
16 term "MPA" to describe these common management actions.

17 The Council is managing to control fishing
18 activities, but obviously we have no control over many
19 non-fishing related activities. We participate in the
20 EFH assessment process with the National Fishery
21 Service, the groundfishing impact projects. There is
22 over 2,500 non-fishing impact EFH assessment projects

1 annually in our regions. We have the ability to
2 comment on, what, 10 or 15 of them.

3 We largely comment as a council on those
4 precedent setting ones, such as the Cape Wind Energy
5 Facility project like Winthrop Beach, which are
6 proposing to take beautiful cobble of the Gulf of Maine
7 that are cod low and Popland Beach and Winthrop and
8 into those beaches. Those types of projects we get
9 involved in. We just can't -- we are not, you know,
10 staffed or capable of getting involved in all 2,500 and
11 we live that largely to the Agency.

12 Obviously other agencies of management
13 authority are Army Corps of Engineers, Marine
14 Management Service, EPA and interestingly enough, now
15 the U.S. Coast Guard, with the Deep Water Court Act
16 with our G terminals. It will be interesting to see
17 how the U.S. Coast Guard is going to permit and deal
18 with those projects.

19 Luckily our projects are northeast and as
20 controversial as they are, are close to the system. So
21 we have sort of a leg up from some of the Gulf issues,
22 but still when you are trying to put a no fishing zone

1 eight miles off the Gloucester, you have got an issue
2 with the fishing community.

3 An ideal MPA system would integrate and
4 coordinate the management authority. We have
5 recommended in the past some kind of regional advisory
6 board with the Council, NOS, EPA, the Corps, Mineral
7 Management, Fish and Wildlife so we can actually sit
8 down at the table and talk to each other. Right now
9 most of our interactions are staff by staff and, you
10 know, it is hard to know who -- Fish and Wildlife
11 Services is generally one issue and if we actually had
12 a chance -- it was informalized, that we could actually
13 sit down and talk to each other on a regular basis, I
14 think that would help us out quite a bit.

15 It would allow us to form relationships. The
16 Army Corp of Engineers, for instance, could understand
17 why we are recommending some of our confirmation
18 enhancement recommendations in our non-fishing impacts
19 projects. They are not just a paper exercise, we
20 actually would like to see improvements in the north
21 shore areas for our fisheries.

22 Under the Magnuson Act, the regional fishery

1 management councils will continue to protect fish docks
2 and habitats in the most appropriate way, including
3 closed areas and restricted areas. The use of closed
4 areas and restricted areas is at the whole discretion
5 of the regional councils and it is consistent with an
6 integrated approach for MPA's.

7 Unfortunately, we don't have a council policy
8 strategy or official position on MPA's management. The
9 Council completed two MPA education outreach workshops
10 in May 2005, essentially last week, to solicit input
11 from the public on the Council's MPA policy. This was
12 funded through the MPA center, which we greatly
13 appreciate, and was facilitated with the help of Maine,
14 Rhode Island, New Hampshire and Connecticut Sea Grants.

15 We brought in a bunch of people and we had a targeted
16 input sessions on what should a council MPA policy look
17 like and we are just right now sifting through that
18 data.

19 In legitimacy afforded MPA's executive order
20 indicates that the Council should increase its
21 involvement and the role of council MPA policy should
22 be to develop strategy on MPA's, better coordinate

1 fishery and non-fishery related MPA activities,
2 establish a formal link between the Council and
3 relevant MPA activities and Federal Advisory Panel,
4 insure some coordination to keep the public and other
5 agencies informed of council rules and
6 responsibilities. That, in a nutshell, is my
7 presentation.

8 MR. LAPOINTE: Thanks, Leslie.

9 Questions? I will start with John.

10 DR. OGDEN: Thanks. That was very
11 interesting, especially your demonstration of sort of
12 the history and the buildup of this and you mentioned
13 that, of course, this is essentially -- these are
14 cumulative accidents of history, it isn't strategic.
15 Are you hinted at the likelihood that we would like to
16 see it more strategic and if so, how would you do that?

17 MS. MCGEE: Well, we are embarking right now
18 on some pilot projects. We are one of four councils
19 funded to do an ecosystem pilot project where the
20 eventual end will likely be a fisheries ecosystem plan.
21 We have such a small geographic area to deal with and
22 such a large number of fishing activity.

1 For instance, in the groundfish plan, prior to
2 Amendment 13, just in the groundfish plan alone we had
3 over 1,800 vessels targeted. So then you add up all
4 the other fisheries that we have going on and it is
5 going to be quite a challenge for the Council to take a
6 step back and think, you know, what are we doing and
7 how can we do this more strategically, but, you know,
8 from my opening as a staff member, I can see some of it
9 all building together where, you know, this past year
10 we have had a problem with our herring fishery with
11 catches of groundfish and it is all coming to a head.

12 So I think that people would like to
13 strategically do this a little better, but from an
14 allocated nature and how we are trying to do our stock
15 rebuilding, it is hard to take that step back and say,
16 let's start over.

17 MR. LAPOINTE: I have Barbara Stevenson and
18 then Terry and Bob.

19 MS. STEVENSON: To the last question, what,
20 10, 11 years ago when we made what were groundfish
21 closures, permanent closures, we all agreed that
22 immediately we were going to work on making them the

1 right parameters because we knew they weren't. They
2 still are exactly the same parameters. So all good
3 intentions to get things in a direction, it is very
4 difficult to change something once it has been
5 implemented.

6 Leslie Ann, can you go to the May slide when
7 you -- of fishing activity.

8 MS. MCGEE: May?

9 MS. STEVENSON: Is that possible? Yes.

10 MS. MCGEE: I will try.

11 MS. STEVENSON: Since it is May and May is our
12 most -- has the most closures and the reason that I
13 would like you all to look at that is you have noticed
14 some significant hesitancy on the industry's part to
15 have an MPA for MPA's purposes and it is not that --
16 obviously we are not opposed to area management, we are
17 not opposed to closures, but --

18 MS. MCGEE: I am sorry. It does its own
19 thing.

20 DR. BROMLEY: I was going to say, she can get
21 to May, but can she stop it there, Barbara. That is --

22 MS. STEVENSON: That is sort of why I asked

1 can you rather than please go.

2 MS. MCGEE: Yes, I can. Barbara, the answer
3 to your questions is always yes, I can.

4 DR. BROMLEY: You don't want to say no to
5 Barbara.

6 (Laughter.)

7 MS. STEVENSON: Because it is important for
8 you all to realize the significant level of closures
9 that the fishing industry -- yes. There. If you
10 notice all the fishing activity is in one little place
11 in the Gulf of Maine because that is the only place
12 that is open and has fish. There are other places that
13 are open, but they don't have fish. And so when you
14 look at how much is closed relative to how much is
15 open, I think that is an important message for you all
16 to realize is some places there really isn't much open.

17 Thank you, Leslie.

18 MR. LAPOINTE: Terry.

19 MR. O'HALLORAN: Thank you, Leslie Ann. I
20 enjoyed your presentation very much. You have got
21 quite a conglomeration of areas there that really
22 strikes me. One of the comments you made about that

1 you recommended regional councils and illustrated some
2 of the benefits that you might derive from regional
3 councils, that is something that is embedded in our
4 current draft and I am just curious, what has been the
5 roadblocks or why do we not have regional councils from
6 efforts from your recommendations?

7 MS. MCGEE: I am not sure I am the best one
8 qualified to answer this, but I think largely the
9 Council thinks that the Council system works and is
10 very hesitant about relinquishing its regulatory
11 authority and it is sort of hard to do our job in
12 itself and then, you know, to add on literally how do
13 we coordinate with others and how does that impact the
14 job that we might do. I don't think those questions
15 have really been embarked on yet. I think maybe George
16 and Barbara might be able to better answer that than I
17 would.

18 MR. LAPOINTE: I will jump in and then I have
19 got a couple of other folks. Part of it is, is a
20 concern about putting a new veneer of regulatory work
21 on what is already a busy system and figuring out the
22 return punitive effort on that. Is it going to be

1 effective or is it going to be cumbersome. You know, a
2 real concern that we are going to -- you know, we have
3 already got a system that makes me feel like the
4 engineer on Star Trek on the Enterprise that the "Ship
5 can't take anymore, Captain."

6 (Laughter.)

7 MR. LAPOINTE: And not without a lot of
8 forethought and a lot of questions like we have about
9 design and implementation accepting, you know, a new
10 bureaucracy without making sure that it is going to be
11 effective and productive.

12 MS. MCGEE: The other reason, if you don't
13 mind George, is that, you know, our council staff in
14 itself is very limited, I think we have 11 staff
15 members of which 5 are professional staff, and it is
16 hard enough trying to get the work done to manage the
17 fisheries let alone to think about how we might, you
18 know, in-house a lot of the coordination work as well.

19 MR. LAPOINTE: Bob Zales.

20 MR. ZALES: Thank you, Leslie Ann. This was a
21 neat presentation. I have got three questions I guess.
22 First, the area that you showed that was the

1 rectangular box close to the beach where you said that
2 you had stakeholder input in creating that area and
3 initially it was done temporarily and then it was done
4 permanently. Whenever the changes were made to the
5 permanent establishment of that area, was the
6 stakeholder inputs still used to do that or is it once
7 you do it temporarily, the Council decided to make it
8 permanent?

9 MS. MCGEE: Well, I mean, the Council's
10 process itself is, probably arguably, the most public
11 process of any regulatory --

12 MR. ZALES: Yes, I would agree.

13 MS. MCGEE: -- process in the country. Every
14 single level of decision-making and recommendation
15 making of public input is taken so -- even down to our
16 science team level. So I would argue that there is
17 significant amount of stakeholder involvement in any
18 and all of our divisions.

19 MR. ZALES: Okay. And the next one where you
20 talked about the use of VMS, because in the Gulf they
21 are talking about VMS's now, and when you showed those
22 closed areas, you see some docks in those areas where

1 obviously somebody must be in there where they are not
2 supposed to be. Have those VMS -- the uses of VMS and
3 when people are getting in those boxes, has that helped
4 with enforcement to make cases for violations or what
5 has been the result of that?

6 MS. MCGEE: Well, I guess Barbara is probably
7 the best one to answer because her boats do have VMS on
8 them; is that correct, Barbara?

9 MS. STEVENSON: Yes. I am suffering from VMS
10 and one of my boats that was accidentally in a new
11 closed area got caught by VMS, which is appropriate.
12 Some of those areas you can steam through.

13 MS. MCGEE: That is right.

14 MS. STEVENSON: So you get a ping because they
15 happen to be steaming through there. There is also
16 something called errant pings, which have gotten less
17 over the years, but this was not this year's data,
18 which, you know, shows us sometimes fishing in Vermont
19 and that kind of thing. So you get some errant pings
20 in there that weren't actually fishing vessels. But
21 they have been extremely helpful and now I think
22 everybody has to have one or almost everybody.

1 MR. ZALES: Well, I guess I wasn't clear on my
2 question. The question was that if somebody is
3 actually caught in that area and the VMS is the one
4 that has been -- has signaled the violation and it was
5 actually there, it wasn't a false thing or whatever, did
6 the VMS help in making the case with enforcement or is
7 the VMS -- because we have been told that VMS's would
8 greatly enhance the capability of enforcement to do
9 that. So that is my question.

10 MS. STEVENSON: They use VMS only to make
11 cases.

12 MR. ZALES: Okay. All right. And then the
13 last one is on your LNG facilities, you said that you
14 all have the same issues there in New England that we
15 are having now in the Gulf, but fortunately for you
16 all, you are playing with closed loops, which fishermen
17 in the Gulf of Mexico have, ever since I have been
18 fishing, which has been almost 40 years now, worked
19 very well with the oil industries because we love those
20 rigs out there.

21 But the issue besides open versus closed loop
22 has also come into the security zones because of

1 Homeland Security. And in the Gulf they are talking,
2 last I heard at this last council meeting, we are
3 talking about, like, 11 miles in circumference. That
4 is a pretty big closed area and that is just -- you
5 don't go in there period. So how are you all dealing
6 with that?

7 MS. MCGEE: Well, we had a similar situation
8 where I believe there is a seven mile radius around the
9 LNG terminals as opposed as to the no access zone.
10 There is an additional mile or two buffer on that. We
11 have yet to figure out what purpose that serves.

12 So, you know, what we do is, you know, we
13 are -- on these particular issues that that are high
14 profiles precedent setting issues, which these are for
15 us. You know, we are in the fray of every single
16 comment period and because we have the authority to
17 comment on these projects, specifically through EFH
18 regulations, we actually can require them to respond to
19 our conservation recommendations.

20 So, you know, these are the projects that we
21 kind of throw the gloves off and say that every
22 single -- you know, every meeting that we can be at,

1 you know, we are commenting at. Every -- or even if it
2 is a preliminary, preliminary, preliminary draft, we
3 have got comments on it. So, you know, then obviously
4 as you know, you know, you have to at some point
5 employ, you know, your peripheral help in the area.

6 So it is certainly -- you know, close in
7 proximity is a good thing in terms of obviously a
8 baseline proposal, which was good, but we had two
9 proposals and we are rapidly getting more. There is
10 one five miles up in the Taughtnton River, there is, you
11 know, one seven miles off of Gloucester. So, I mean,
12 they are rapidly becoming important.

13 And also there is -- even with the LNG thing,
14 we also have other, you know, pipeline issues where
15 there is pipeline proposed from the Sable Islands to
16 come right smack through Georges Bank down through the
17 grapevine channel and right along our edge, which has
18 other issues for us as well.

19 So we are sort of being inundated by energy
20 proposals at this point. And then the wind farms
21 proposal kind of cut off Nantucket, but it is, you
22 know, right in there. So we are sort of running around

1 scattered at this point with so many proposals to
2 comment to.

3 MR. ZALES: One other quick question just as a
4 follow-up I guess. The closed loop systems, were they
5 initially proposed by the companies proposing these
6 things or was it because of input from your council and
7 because of the amount of fishing in that area that
8 closed loop was kind of -- an open loop wasn't really
9 done?

10 MS. MCGEE: I have to give a lot of credit to
11 the National Marine Fishery Service and the habitat
12 folks in our region that said, you know, this is sort
13 of a baseline situation that we wanted to consider and
14 somehow they got them to say, fine, we will do a closed
15 loop to start with.

16 MR. ZALES: Okay. Thank you.

17 MR. LAPOINTE: I have Wally, Mike, Bonnie and
18 Rod and Dan.

19 DR. PEREYRA: Thank you, Leslie. In the north
20 pacific, we had a somewhat similar redistribution
21 effects that you shown there in New England. And one
22 of the consequences that we had in certain areas is as

1 the effort was redistributed out of areas that were
2 closed, there was an increase in bycatch because the
3 target species abundance in some cases dropped and so
4 the fishermen were fishing longer to get the same
5 quantity of fish because we have a fixed quota system
6 in the north pacific. Have you noticed any affects of
7 that sort from the redistribution of effort?

8 MS. MCGEE: Sure, especially in the scallop
9 fishery, for instance, where we have, you know, closed
10 the most productive scallop grounds for a number of
11 years. The total area swept to catch the same amount
12 of scallops went up significantly. So I mean, you
13 know, essentially what we do in some respect, and most
14 of the economists at the table won't like to hear this,
15 but we made it an efficiency and it is unfortunate, but
16 that is the way, from our control, we have dealt with
17 it over time. So to answer your question, definitely
18 yes.

19 MR. LAPOINTE: Mike?

20 DR. CRUICKSHANK: Thank you. Two questions.
21 On the wind farms, who regulates the wind farms and the
22 second question is, if you have a conflict with MMS

1 over the oil and gas development, who wins?

2 MS. MCGEE: Well, the wind farm, the wind city
3 is being permitted by the U.S. Army Corps of Engineers.

4 DR. CRUICKSHANK: And that is because it is in
5 the territory waters?

6 MS. MCGEE: Yes. Yes. It is in Nantucket
7 Sound. It is right in here and it is a hundred and
8 thirty towers, four hundred and twenty-five feet tall.

9 They still think that we will be able to turn a boat
10 in there somehow or get a helicopter in there to rescue
11 somebody. We are really not sure how, but and the
12 answer to your next question is generally when we make
13 comments to other regulatory authorities, we don't
14 receive responses back frankly. We write our letters;
15 we don't get responses.

16 DR. CRUICKSHANK: Thank you.

17 MR. LAPOINTE: But they care deeply.

18 MS. MCGEE: I am sorry?

19 MR. LAPOINTE: But they care deeply. Bonnie.

20 DR. MCCAY: Leslie Ann, one -- the executive
21 order talks about MPA's that would be part of the
22 national system that is having lasting protection and

1 we are grappling with the definition of that. Would
2 you -- the kinds of closures that you have been talking
3 about, either -- both temporary and permanent, would
4 many of them qualify if you said that they had to be
5 closed for about -- protected for about 10 years with
6 the idea that much of that time would go to the
7 procedural requirements of actually setting it up and
8 then also time required to evaluate them?

9 MS. MCGEE: I guess your question is --

10 DR. MCCAY: I mean, in other words, do you
11 think many of these would qualify as having lasting
12 protection if 10 years was the minimum for lasting
13 protection. I guess that is the simple question here.

14 Have many of these lasted for 10 years and if so, do
15 you think they would qualify to be part the national
16 system of MPA's.

17 MS. MCGEE: Yes.

18 DR. MCCAY: Thank you.

19 MS. MCGEE: Because most of these areas have
20 been closed either, since 1969 onwards to some of the
21 newer ones like these ones were just closed last year,
22 but they were closed indefinitely. So and some of them

1 are only closed certain months of the years, but they
2 are closed those months every year. So they provide
3 lasting protection to spawning and migrating fish in
4 that area every year that they go through there.

5 DR. MCCAY: And is there -- just following up.
6 And is there a systematic attempt to evaluate the
7 effects of closure?

8 MS. MCGEE: The Council is restricted in that
9 we are not the data collection body. So we rely on
10 National Fishery Service to do that kind of evaluation.

11 And in some areas, from a stop perspective, they do
12 some of that work. From a habitat perspective, not
13 quite as much. So I always see this sort of, you know,
14 ideal MPA, you know, you have a purpose and a goal and
15 then, you know, you implement it and you evaluate it
16 and, you know, it would be adaptable.

17 And the evaluation criteria is something that
18 we have problems with because we don't -- you know, we
19 implement it, but we don't really have direct control
20 over whether or not it works or not. And frankly, that
21 is a huge question for our fishery and our stakeholders
22 is how do you know if this thing working and we have to

1 rely on the Service to give us those answers and, you
2 know, they do a lot of work for us, but evaluating the
3 effectiveness of closed areas is not top on their list.

4 We are still trying to get sort of level one,
5 level two data from them and even we are trying to get
6 level four data for EFH, which is, you know, can we
7 attribute some of these closed areas to increased
8 fishery productivity. We have a little of that
9 information for cod, but for the other 39 species, you
10 know, we are still at a lost.

11 But we are ahead of some of the other
12 councils. You know, in talking to the western pacific
13 council a couple of weeks ago at a meeting, they were
14 still trying to get presence data and absence data for
15 some of those species. So we took the longest trawl
16 survey in history. It is, you know, well over 50 years
17 old.

18 MR. LAPOINTE: Rod.

19 DR. FUJITA: Yes. I was really impressed by
20 the data that you showed, I know it is preliminary and
21 not comprehensive, but tracking the vessels and showing
22 this impressive amount of aggregation around the closed

1 area boundaries. Does that -- or have you documented
2 increased catch rates or bigger fish sizes predicted by
3 theory and if so, do you think that that has
4 compensated for the lack of or the reduced amount of
5 fishing opportunity represented by closing these big
6 areas in terms of total catch?

7 MS. MCGEE: From a groundfish perspective, I
8 will let Barbara answer that question. From a scallop
9 perspective, the answer is definitely yes. I mean, I
10 think I recall a fisherman saying there is scallops in
11 here dying of old age and that is not natural.

12 (Laughter.)

13 MS. MCGEE: You have heard this, George,
14 right? You know, this is -- it is an issue for them
15 and they see it as yield. And so these closed areas,
16 you know, have really done their job for sedentary
17 purposes. I will let Barbara answer the --

18 MS. STEVENSON: The very quick answer, you
19 have to realize that the first round of closed areas
20 were to protect haddock, which we have done a
21 phenomenal job, or something did, but we closed all --
22 year round all of the areas that haddock were known to

1 be in. So since they are still closed, it is a little
2 difficult to not catch them now that there is plenty of
3 them, which is why we have the special access, which is
4 just starting.

5 But you saw all those boats sitting around
6 waiting. They are actually -- or fishing. They are
7 only waiting for certain weather conditions when the
8 fish will accidentally come out of the area. So I am
9 not quite sure you would call it a spillover effect in
10 the sense that they are spreading their range, they are
11 just waiting for this one event where the -- and with
12 haddock, they are very concentrated. So if you get
13 them, you get them. So you might sit there five days
14 with nothing and then get them if the weather turns
15 right or wrong depending on whether you are human or
16 haddock.

17 (Laughter.)

18 MS. MCGEE: It is also hard to attribute a
19 closed area to larger fish or more fish because we have
20 so many other regulations on top of them. We have --
21 we manage fish in this region by this fishing out by
22 days at sea and the proposed allocated X amount of days

1 at sea and there have been significant days at sea
2 reductions that was based on their history. So, you
3 know, with those and the gear restrictions, time area
4 closures, permanent closures. So it is really
5 impossible to -- for us to say whether this particular
6 closed area can be the cause of why.

7 DR. FUJITA: Yes, that is a fair point. I
8 actually had another question about the gear
9 restrictions. On the west coast, we have a rolling
10 gear restriction too, it is to a smaller size, but I am
11 wondering have you documented or studied the effects of
12 the 12 inch roller gear restriction on preventing
13 access to kind of rocky or pinnacle areas?

14 MS. MCGEE: Yes. In our last major amendment
15 to groundfish, we proposed having a suite of
16 alternatives for a restricted rocker and roller gear
17 all the way down to cookies, from 36 inches all the way
18 down, and we can attribute getting into certain areas
19 with certain types of gear sizes. The 12 inch seems to
20 be the point at which it is hard to get into a lot of
21 highly complex areas. You still can get into a lot of
22 areas, but you can't get into a lot of highly complex

1 areas.

2 You have to understand that, you know, Georges
3 Bank is a fairly shallow environment. The Gulf of
4 Maine is largely dominated by mud intermixed with a lot
5 of complex areas. So it is sort of a game of where you
6 want to get into and what you want to use to get in
7 there. Our trawl survey uses about 18 inch roller gear
8 when they do the test information. So and they don't
9 get into very complex areas, which is one of the beefs
10 about trawl survey is that they are not really going
11 into the areas where the fish are necessarily.

12 MR. LAPOINTE: Dan Bromley.

13 DR. BROMLEY: Yes, thank you. I have a
14 question for both speakers if I may. Bobbi, Barbara
15 Stevenson called you on your economic value numbers. I
16 would like to reenforce her point. It may seem
17 inhospitable for me to ask you to come forth and
18 criticize your slide, but you really don't have economic
19 value there. When you talk about expenditures of
20 recreational fisheries, this is not economic value. An
21 X vessel landing value is not economic value.

22 So I think Barbara's point is a good one and

1 you may save yourself some abuse in the future if you
2 think about how you talk about those two things. Total
3 X vessel value of commercial landings is a bottom
4 underestimate of the total economic value of commercial
5 fish in the United States, okay. And expenditures --
6 recreational fishermen are expenditures. And so that
7 is my quibble with the way you talk about value and in
8 a sense, that is Barbara's point, if I may. Okay. But
9 go ahead and respond if you would.

10 MS. WALKER: Can I respond?

11 DR. BROMLEY: Yes.

12 MS. WALKER: Okay.

13 DR. BROMLEY: Be careful, but go ahead.

14 MS. WALKER: We don't have any data in the
15 Gulf of X vessel value for commercial fisheries. There
16 have been some of us on the Council that have requested
17 them to take that dollar figure off of the vessel and
18 extrapolate it through restaurants --

19 DR. BROMLEY: Whatever. Yes.

20 MS. WALKER: -- retail stores and things like
21 that, but the recreational data, too, I think could
22 possibly be underestimated because we haven't dealt with

1 diving -- divers and I think that is becoming very
2 important in the Gulf of Mexico because it is
3 acclimated for diving.

4 DR. BROMLEY: Yes.

5 MS. WALKER: But even when you look at the two
6 figures, 800 million to 8.1 billion, and you take into
7 consideration that we have not included divers in
8 there, it shows there is a big difference between
9 commercial and recreational fisheries and the economic
10 value or impact they have to the nation. Even if you
11 were to extrapolate the commercial fishery past the X
12 vessel value, I don't see it reaching anywhere near 10
13 times what it is now.

14 DR. BROMLEY: That is fine and that is not my
15 point. My point is we want to be clear about how we
16 talk about things and the slide says economic value and
17 you give us two numbers and neither number represents
18 value. That is my point, okay? I don't care whether
19 one is too small or too big, it is how we talk about
20 things, the language you use to describe stuff. And I
21 am just saying to you when you put a slide up called
22 "Value," you haven't captured what it is that you think

1 you are conveying, okay? We can talk about it later.
2 It is -- sorry. I do have a more friendly question for
3 you.

4 MR. LAPOINTE: I hope so, Mr. Chairman.

5 (Laughter.)

6 DR. BROMLEY: And it goes also to Ms. McGee.

7 I want to say Bobbi and Ms. McGee and me and Bobbi
8 McGee almost, right? I am interested in -- you didn't
9 say much about recreational fishing here and I would
10 like to hear a little bit about how they are involved.

11 And then I would like to hear from both of you how, on
12 your councils, the recreational and the commercial
13 folks are represented and interact. Okay. So could
14 you --

15 MS. MCGEE: Yes. We have a significant
16 recreational component to our fisheries, a little
17 different than the situation that is -- where it is,
18 you know, largely seasonal, but we do have a number of
19 charter party vessel, vessel operators in the area that
20 take night trips out the Georges Bank and other areas.

21 They are allowed into almost all of our closed areas
22 because they are not capable of catching groundfish and

1 this distinction.

2 We have a number of private anglers, you know,
3 one of our bigger commercial -- I mean, one of our
4 bigger recreational fisheries in our region, the
5 striped bass that is managed by NEFSC. So there is a
6 big recreational contingent. It is just more seasonal
7 in nature than some of the other councils might
8 experience.

9 DR. BROMLEY: And how is it represented on the
10 council?

11 MS. MCGEE: Our council chairman is the
12 recreational fisherman. He -- well, I shouldn't say
13 recreational fisherman. Is a commercial entity that
14 owns --

15 DR. BROMLEY: Charters?

16 MS. MCGEE: -- charter party boats that point
17 to different islands. We have several other council
18 members that represent -- a few of them that represent
19 commercial -- I mean, recreational interests on our
20 council as well in different states.

21 DR. BROMLEY: Good. Thanks.

22 Bobbi?

1 MS. WALKER: Dr. Bromley, if my recollection
2 is correct, the Gulf of Mexico has more recreational
3 angler trips than any other area in the United States
4 and as far as representation on our council, our
5 council has five recreational representatives, five
6 commercial representatives and one environmental
7 representative.

8 DR. BROMLEY: Good. Thank you.

9 MR. LAPOINTE: Mr. Chairman, your question
10 about value has spawned some interest. I would just --
11 I am going to make a personal comment. Quibbling --
12 not quibbling. Arguing and disagreeing about the
13 numbers in the value masks, I think, the fact that both
14 sectors are important. You know, I mean, I think that
15 is the important take home point is not 8.4 billion
16 versus 800 million, it is just that they are both
17 important activities.

18 DR. BROMLEY: Yes. Of course. I am sorry if
19 I was -- if you misunderstood. That was not the point.

20 MR. LAPOINTE: No, I know, and I was going to
21 argue that -- I would just make the comment that when
22 we are trying to drive towards consensus, you are

1 raising an issue for which there is as much passion
2 about the value of different interests in the ocean as
3 there is in MPA, but with that, Mike Nussman and then
4 Gil.

5 MR. NUSSMAN: Mr. Chairman, all I was going to
6 say is the term "value" is one that means many things to
7 many people. I would think their slide was correct in
8 the sense that it did, in fact, reveal that they were
9 comparing apples and oranges and not -- were not
10 comparable in sort of any sense. So I don't think she
11 tried to mislead this group and I personally probably
12 would have written the slide very much the same way.

13 I would also add that the -- we, in both
14 communities, are largely dependant upon the federal
15 government or states to collect this information and
16 that in fact, it wasn't very long ago where the National
17 Fishery Service had more economic information on
18 catfish farming in the United States than they did have
19 on recreational fishing and we have worked very hard to
20 provide them with the money as well as the impetus to
21 go out and collect those data. So while we wish we had
22 perfect economic information, the truth is, we have

1 worked hard to get just the basics that we have right
2 now. So with that, I will put my passion aside.

3 MR. LAPOINTE: Thank you.

4 Gil.

5 MR. RADONSKI: Dan, I agree with your
6 analysis, the use of the economic terms, and just a
7 brief history of how this came to be. Back in the
8 early eighties, the Sportfishing Institute began
9 collecting this data because we were in an allocation
10 battle for the resource and allocation was based on the
11 value and there is no market-based value for
12 recreational fishing.

13 So we had to adopt a surrogate, if you will,
14 value. And that is what we are doing in this case.
15 And the one thing, that was measurable that we could
16 collect data on was expenditures. So it was collected
17 for getting involved in the allocation process and
18 making our case for a fair allocation of the resource.

19 DR. BROMLEY: Yes. May I respond, George?

20 MR. LAPOINTE: You may.

21 DR. BROMLEY: Yes. I am happy to have all
22 this feedback and I did not mean to be unduly

1 provocative here. I just think when we talk about the
2 word "value," I would like the word to speak to people
3 and we are talking about expenditures, we are talking
4 about X vessel revenue. That is all and I am sorry if
5 I provoked anybody.

6 MR. LAPOINTE: Tundi.

7 DR. AGARDY: I don't know if I dare bring this
8 up, but I think we have a few minutes left before the
9 break. Leslie, a great presentation and I was spurred
10 into thinking a little bit, when I sensed your
11 prospective on the wind energy proposal, into thinking
12 about ecosystem-based management really means.

13 And I have a question as to whether you think
14 there is any hope for the regional fisheries councils
15 or any other kind of regional kind of management entity
16 to start to work cooperatively or in concert with some
17 of the other entities that actually control growth and
18 land use planning and other things that affect -- in
19 the long run affect marine ecosystems because the wind
20 energy proposal is a response to growing energy needs
21 on Cape Cod.

22 Cape Code is highly overdeveloped by anybody's

1 perspective and that runaway growth on Cape Cod has led
2 to all kinds of environmental problems that, you know,
3 the wind energy is one response. It might not be the
4 best response, but there has to be some response to the
5 growing needs of that community.

6 And when we are talking about -- I know it is
7 very difficult to define ecosystem based management and
8 I know that expanding the limits of consideration to a
9 point where it overburdens the capacity of staff and
10 decision-makers to respond, it is not very fruitful.
11 On the other hand, at some point this nation has to
12 come to terms with the fact that marine management can't
13 happen in isolation with terrestrial management and the
14 two things have got to move forward together.

15 So I wonder if you think that the regional --
16 the New England Council is moving in that direction and
17 whether they can exert any kind of influence over land
18 use planning in the Gulf of Maine.

19 MS. MCGEE: I guess I have two responses. I
20 will probably shock a few people, but one is, you know,
21 while the Army Corps of Engineers retains the
22 regulatory authority that they do, the answer to your

1 question is probably no.

2 That is a big hurdle for us understanding why
3 the military units would be able to manage our nation's
4 natural resources and the effects on those natural
5 resources outside of military exercises supporting our
6 military. We have problems in our region with the Army
7 Corps of Engineers permitting a wind energy facility
8 when they don't necessarily understand the environmental
9 issues with that.

10 The other, I guess, answer to your question is
11 until we get some more regulatory authority to directly
12 have impacts on those types of projects, right now we
13 and the National Marine Fishery Service only have
14 recommendation authority. We can provide all the
15 recommendations we want until we are blue in the face
16 and they can write us a nice letter back and say,
17 "Thanks for your recommendation" period. Until we get a
18 little bit more, you know, beef into our regulatory
19 power to impose conservation requirements, the answer
20 to your question is probably no.

21 DR. AGARDY: I don't think I made myself clear
22 because what I was asking is not whether -- what kind

1 of authority you had to look at proposals that directly
2 affect the marine environment, but what kind of
3 influence you might have in propelling coastal
4 communities towards smart growth or thinking about
5 limits to development in areas that clearly are
6 approaching their carrying capacity to deal with --

7 MS. MCGEE: I guess my response is our ability
8 is based on our authority and our authority does not
9 enter into the planned based -- management planning
10 issue. I mean, we do actually have the salmon FMP,
11 which the Atlantic Salmon Fishery Management Plan
12 enforces no fishery; however, we do -- we have
13 designated essential fish habitat for Atlantic salmon
14 in a number of rivers and a designated habitat area is
15 of particular concern for salmon in a number of Maine
16 rivers and that actually gives the authority to the
17 National Marine Fishery Service enough to comment more
18 heavily on some upstream proposals. But again, it is,
19 you know, discretionary in nature.

20 And frankly, we have enough problems managing
21 fisheries, getting that right, to expend a lot of the
22 energy managing our inshore or, you know, terrestrial

1 land management. It would be very difficult for us
2 without some kind of, you know, advisory body like we
3 have recommended.

4 MR. LAPOINTE: I would jump in and say no, we
5 can't do that right now because the discussion about the
6 terrestrial interface with the ocean or environment is
7 recognized kind of at the academic level and the
8 scientific level, but societally, people haven't
9 boughten into it yet and until that happens, we won't
10 make that connection.

11 Steve and then Bob.

12 DR. MURRAY: Leslie, thanks very much for your
13 presentation. It has always been a lot of activity
14 going on in this region. I was just curious that if
15 you were to wipe the slate clean and start over again,
16 would you come up with the similar kinds of systems to
17 achieve the same goals, particularly if you were
18 thinking about trying to implement a more
19 ecosystem-based management perspective?

20 MS. MCGEE: Well, hindsight is 20/20, isn't
21 it?

22 DR. MURRAY: Mm-hmm.

1 MS. MCGEE: The answer is probably no. I
2 don't think we have had a lot of these lines, but a lot
3 of these lines were drawn based on the status of the
4 stock and if we, you know, got to the point where
5 stocks were -- are becoming a lot healthier and we
6 could reevaluate, you know, how we do that --
7 obviously, as you know, with stocks, we try to access
8 them again in a way that is sustainable.

9 And that sort of delicate balance between
10 supporting, you know, our nation's fishery needs and our
11 environmental needs is kind of a really thin line and
12 if we could wipe the slate clean and look at it from an
13 ecosystem perspective realizing that humans are part of
14 the ecosystem and that stakeholders are part of the
15 ecosystem, I think the lines would be a lot simpler,
16 but I am not sure who would win and who would lose.

17 And I think that the Council, given the very
18 nature of the way the Magnuson Act set them up and the
19 representation that is on them, you know, the state
20 directors, you know, recreational folks, commercial
21 folks, we have environmental defense on our council,
22 you know, processors, just plain old, you know, regular

1 Joe's, it would be interesting to think how this might
2 turn out differently in my little crystal ball.

3 But I think people are getting a better
4 understanding of how our fisheries are interrelated. I
5 mean, certainly fishermen have been on the water for a
6 number of years. The full understanding of how our
7 fisheries are interrelated, how we chose to manage them
8 on a political context is what is concerning and
9 unclear to me.

10 MR. LAPOINTE: Bob Zales.

11 MR. ZALES: Yes. Mine is just kind of a
12 comment about this process that we have gone through.
13 I want to, as one of the people who have encouraged
14 participation at our meetings by the various councils
15 to make presentations as to what they do, I want to
16 thank the chairman and the staff for allowing this to
17 happen.

18 And I think that what we have been able to see
19 is some things that some of us also have tried to make
20 clear is that the councils, the various councils are
21 doing, in my mind anyway, a tremendous amount of work
22 and doing their part in trying to protect habitat and

1 resources, whether it is a seasonal closure or a
2 permanent closure where there is total access denied or
3 where it is partial access denied. I think we see that
4 there is a lot of areas out there that have some sort
5 of protection and I think that we are moving in the
6 right direction.

7 And going along with what Tundi had said, and
8 this has been where I have been coming from on the past
9 several meetings about talking about the authority that
10 we are playing with seems to be in federal
11 jurisdiction, that without the local communities and
12 the state being involved, it is kind of a useless
13 process and part of that has to do with what has been
14 mentioned here about development and that plays at the
15 state level and the local level and obviously the
16 councils don't have any authority over any of that
17 because their primary function has to do with fishing
18 and fishing activity.

19 And without some kind of regulatory atmosphere
20 on the development, especially along our coast where,
21 in my mind, habitat is probably more critical than
22 anywhere else, a lot of -- in my mind, a lot of what we

1 are talking about doing is going to be a temporary
2 package, it is not really going to fix it, because -- I
3 have used the Madison-Swanson area as an example.

4 It is a great area for spawning aggregation of
5 gag grouper and does a wonderful job about protecting
6 that and allows those fish to get together and allows
7 eggs to grow up into little tiny fish, but if you don't
8 have grass beds protected on the coast in the Big Bend
9 area and the panhandle of Florida where those fish live
10 the first year or two of their lives, in my mind, it
11 doesn't do any good and you have got to have that
12 coordination.

13 So again, I want to thank the chairman and the
14 staff for allowing us to do these presentations. I
15 think they were very good. Thank you.

16 MR. LAPOINTE: I have Barbara Stevenson and
17 then to keep on schedule, we will bring it to a close.

18 MS. STEVENSON: Yes. I want to thank Leslie
19 Ann for the presentation. It was very good, but I also
20 want for you all to understand that this is a
21 simplified version. She excluded all the gill net
22 restricted areas, the gill net closed areas, which are

1 for Harbor porpoise, the seasonal closures for whales
2 and the sams and dams, which are on the spot closures,
3 essentially. I mean, they are not today, but they are
4 like for the next month or so having to do with whales
5 also. So this is the simple version.

6 MR. LAPOINTE: I want to close by thanking
7 Leslie Ann and Bobbi for great presentations and for
8 good follow-up as well. Thank you very much.

9 (Applause.)

10 DR. BROMLEY: Okay. We are right on schedule,
11 10:00. We have a break and we come back at 10:15 and
12 we have a sportfishing panel. So we will see you in 15
13 minutes.

14 (A brief recess was taken.)

15 DR. BROMLEY: We need to get started. Bob,
16 are you going to operate from back there?

17 MR. ZALES: No, I am going to come up there.

18 DR. BROMLEY: Okay. Oh, good, we get another
19 crack at Bobbi Walker.

20 (Laughter.)

21 MS. WALKER: I am going to talk about value.

22 DR. BROMLEY: Yes, well. Yes, right. I was

1 going to say you see my agent. We will do a consulting
2 contract, but you talk to my agent.

3 MR. ZALES: Okay. Are we ready?

4 DR. BROMLEY: Yes. Go ahead, Bob.

5 MR. ZALES: All right. Thank you, Dan, and
6 again, I want to thank you for convening this panel and
7 allowing the recreational sectors to give their views
8 on what they have done and what they expect out of the
9 MPA's.

10 I am sorry to say one of the panelists, Bob
11 Fletcher from San Diego, is not going to be able to
12 make it. He, as I understand, got an illness in his
13 family. So he wasn't able to come. They did print out
14 and given everybody a copy of his presentation that he
15 was going to do.

16 And if I could, I would just like to mention
17 on here that Bob is president of the Southern -- or the
18 Sportfishing Association of California, which was
19 created in 1972, and then I believe Bob, at one point,
20 I don't know what his position was, but he was with
21 California Fish and Games.

22 PARTICIPANT: Director.

1 MR. ZALES: The director? And so he is very
2 knowledgeable on what he does here and the organization
3 which represents the commercial passenger vessel fleet,
4 which is the charter fleet out there in Southern
5 California. He has been president since 1989 and that
6 fleet carries 750,000 passengers a year on their boats.

7 So it is a large fleet. And everybody here knows, I
8 believe, at least some of the history of the MPA's in
9 Southern California and the problems associated with
10 creating some of those areas and the controversies that
11 go along with that.

12 And the key thing, I think, in here is that
13 SAC believes that the only intelligent approach to
14 manage the fisheries is through the use of sound
15 science, coupled with accurate, timely and credible
16 catch information. As long as you have that and good
17 stakeholder input, that you should be able to create
18 MPA's where you can use them as a tool, in association
19 with other management efforts, to make our habitat and
20 our fisheries much better. And I would encourage all
21 you all to read that.

22 First up is going to be Bob Hayes. For those

1 of you who don't know Bob, Bob is a former NOAA attorney
2 and I think for five councils and I know for the Gulf
3 council at one time he was the attorney. He is also
4 the recreational representative to ICAT for the United
5 States and he has experience with HMS fisheries and
6 things like that and he is here today representing the
7 Coastal Conservation Association, CCA.

8 He is their attorney in Washington and I think
9 he has been that attorney now for 20 years or so. So
10 he is very knowledgeable about the association and what
11 they represent. So Bob, I will turn it over to you.

12 MR. HAYES: Thanks, Bob. What I would like to
13 talk about today a little bit today is what is
14 recreational fishing, what is the size of it, how big
15 is it, what does it do. Then I want to talk a little
16 bit about how it is organized and in that context, I
17 want to tell you a little bit about the Coastal
18 Conservation Association.

19 And then I want to go and talk a little bit
20 about what MPA's are, why we have taken on, essentially,
21 an adversarial role with no fishing zones and the
22 importance of access to recreational fishing and to

1 recreational fishermen. That is essentially what I am
2 going to talk about.

3 I think most people know that recreational
4 fishing in the United States, and I am only talking
5 about marine recreational fishing here, is a very fast
6 growing and probably the fastest growing sector of
7 recreational fishing in the country. About 13 million
8 participants in it. That number, depending on who you
9 talk to, goes to 15 million or down to 12. So I just
10 picked 13 million off NMFS' website. And that is a good
11 enough number. It is big.

12 The U.S. Oceans Commission indicates -- their
13 indication of value, which I copied directly from the
14 Commission reports so you can argue with the President
15 on that if you would like or Adm. Watkins, they say it
16 is worth about \$20 million -- 20 billion. Excuse me.

17 But I think from the rest of the indicators
18 are pretty interesting. One, there is about 6 million
19 boats in the United States capable of fishing. Now
20 some of those, obviously, are in the Great Lakes and in
21 other places. So let's just guess. Let's say half of
22 them do marine recreational fishing. That is 3 million

1 boats in the United States capable of doing marine
2 recreational fishing.

3 Sixty-one thousand of them are over 41 -- are
4 over 40 feet long. That is a lot of big boats. You
5 have to assume that at least two-thirds of those are
6 the kind of boats that are involved in offshore fishing
7 and what you can see by the way of which -- sort of the
8 generation of the size of recreational fishing is that
9 recreational fishing, if you will look at it over about
10 a 30 year period here -- go back to 1960 -- no, 1975,
11 let's say -- predominant fishing in the United States by
12 recreational fishermen was basically done onshore.
13 Nobody invented a huge bone fisher in 1975.

14 The 17-foot Mako was just made. And the
15 17-foot Mako is one of the first boats that was used
16 for flat water, inshore fishing. Most of it was
17 wading. Most of it was from the shore. It was a
18 completely different activity.

19 Thirty years later, you have developed an
20 enormous industry to access those waters and you have
21 shifted -- and you can go to the next slide if you
22 want. You have shifted the fishery from predominantly

1 a short-side fishery to what is now at least 50/50 out
2 of a boat. Now this is some data from a study that was
3 done by the State of Florida. And the State of Florida
4 was trying to determine what are the relative values,
5 if you will, of the various industries in the State of
6 Florida. What are they.

7 And so they began taking a look at tourism.
8 That was obviously number one. They looked at citrus,
9 they looked at beef production. As you know, beef
10 production is a big thing in the State of Florida.
11 They began looking at their various industries and what
12 they found was that one of the top 10 industries in the
13 State of Florida was recreational fishing.

14 And these numbers are basically all from that
15 study. And what that study shows is a couple of
16 things. One, it is pretty good sized. It shows this
17 business about transferring from shore-side to boats.
18 It shows that a whole lot of boats are registered in
19 the State of Florida and the interesting thing, at
20 least from my perspective, is that what it shows is
21 there is an enormous amount of growth going on in
22 recreational fishing in the State of Florida. You will

1 see some certain dates there a lot -- 1996 -- and that
2 is because that was the beginning of the data that they
3 were using.

4 Essentially this growth is due to, as we see
5 it, two things. Obviously you have got a population
6 growth. And the first slide, frankly, said that, you
7 know, the President's Commission -- or the President's
8 response to the Ocean's Commission indicates that in the
9 next 20 years, 75 percent of the population of the
10 United States is going to live within 50 miles of the
11 coast. I don't know if that prediction is right or not,
12 but since 50 percent now live within 50 miles of the
13 coast, that is a very large increase in population of
14 the coast.

15 What that would suggest to you is that
16 population growth, people go to the coast. There is
17 something they want to do. And one of the things they
18 want to do is go fishing. Not all of them are going to
19 go fishing, but some large portion of them are going to
20 go fishing. And so I enjoyed the previous comment
21 about how do you plan, what is the Council's role in
22 planning for the future taking into account what is

1 going to happen. How do they look at this growth. It
2 is not only a population growth and impact on the
3 coastal communities, it is a resource problem.

4 The second reason, as we see it in the State
5 of Florida that you had a healthy resource, is because
6 they have done some things -- excuse me, that you have
7 this growth is because you have got a healthy resource.

8 The State of Florida has done some remarkable things
9 in the last 10 years to improve the management of
10 fisheries, particularly the near shore fisheries. I
11 think everybody is familiar with the Florida net ban
12 that is about 10 years old. That has produced terrific
13 small fish catches along the coast.

14 They have banned traps in the State of --
15 there is fish traps in the State of Florida. They
16 banned those I think when I was on the Council. So
17 that would be 25 years ago. And they have gone ahead
18 and put together a series of game fish laws. People
19 are familiar with these. The idea is to take a
20 predominantly recreational fish, which is really a
21 major contributor to recreational fishing, and take
22 that fish out of the marketplace.

1 The State of Florida chose to do that. They
2 have done that for snook, redfish and tarpon. I am
3 sure there is a bunch of others that Bob Zales could
4 give us because he knows what they are exactly. But
5 those are the ones that come to mind when you think of
6 Florida.

7 The last thing we put on there was licensing.
8 The State of Florida has finally begun to license
9 recreational fishermen and one of the things that I
10 will talk about later, as we talk about the Coastal
11 Conservation Association and its program, is we believe
12 very, very strongly in licensing marine recreational
13 fishing.

14 This theme here is essentially that fisheries
15 management works. I think what we heard from the
16 councils and I suspect if you have heard from all eight
17 councils -- what you have heard from all eight councils
18 is there is a significant belief amongst people who are
19 on councils and work with councils that the fishery
20 management system works and it can work within the
21 context of traditional management.

22 We have seen -- and this is particularly a

1 compliment to guys like George and the state directors.

2 We have seen a significant improvement in state waters
3 of large stocks, the ones that we care the most about.

4 And the ones that I have put up here, Striped Bass.

5 Everybody is familiar with that story. You know, we go
6 ahead, we get the state directors to agree to shut down
7 the fishery. They shut down the fishery for about
8 three or four years, striped bass begin to recover.

9 They have been very well managed by the
10 Atlantic States Marines Fisheries Commission at the
11 moment. Striped bass does have a commercial component,
12 but it is reasonably small. It is predominantly a
13 recreational fishery.

14 The other one I want to talk about just
15 quickly on recovery is red drum. There is a big debate
16 going on in the Gulf of Mexico whether it is fully
17 recovered or half recovered or going to be recovered,
18 but I can tell you that red drum is a recreational
19 success story. It is very well managed in the states.

20 It is also a mixed fishery.

21 You can only catch striped bass in a state.

22 You cannot catch striped bass in the EEZ -- excuse me,

1 you can't catch striped bass in the EEZ, but you can't
2 catch red drum in the EEZ either. That has been closed
3 since, I don't know, '89 something, 1989, something in
4 that ballpark. It is a very significant recovery and
5 these recoveries were done predominantly by the impetus
6 of recreational fishing, state directors and fishery
7 management councils.

8 I am going to talk a little bit about CCA.
9 This is sort of my mantra. I often am at national
10 meetings and -- well, we have a board of 220 people.
11 So you can imagine what they are like. And someone
12 will get up and talk about how we need more fish or the
13 size limits ought to be bigger or smaller or the bag
14 limits aren't big enough and all those kind of things
15 and I point them to the middle word a lot and I say
16 read that work that actually means something. We
17 actually care about that.

18 And for those people who probably -- has
19 anybody in here read Field and Stream this month? No?
20 Probably not a big Field and Stream group. The
21 President reads it on the airplane. You might want to
22 try to read it. But Field and Stream this month had

1 its anniversary issue and it named the 50 most
2 significant people in recreational fishing and the
3 Coastal Conservation Association and our founder,
4 Walter Fondron, was named as the number one
5 conservationist in the history of fishing. So we take
6 the word "conservation" pretty seriously.

7 I am going to tell you a little bit about CCA
8 because it gives you a sense of how basically
9 recreational fishing organizations are organized. CCA
10 is in 15 states. We have a group here. I suspect,
11 without looking too hard, I could find five members of
12 that -- of the organization in this room. I certainly
13 know three. And we have members, basically about
14 90,000 members, we operate in these 15 separate states.
15 We have a national staff, which is in Houston, Texas.

16 My role, as general counsel, is to essentially
17 do strategic planning and a little bit of lobbying here
18 and there and they actually let me go to court once in
19 a while, but I also have available to me three national
20 lobbyists and we have fourteen state lobbyists. So our
21 role in this system is to push the system. We have
22 been very aggressive over the years about pushing the

1 system and I will talk about our conservation program
2 in a second.

3 The principles that we were founded on and the
4 principles that we actually first laid out in some
5 testimony dealing with red fish in 1986, I think, were
6 that the fish comes first. If you are worried about
7 allocation, we may get to allocation and we certainly
8 have allocation fights, but if it is at the expense of
9 the fish, we have got no interest in doing it.

10 The second one is that our decisions, we try
11 to base them on sound science. Now I think "sound" is
12 the word I used in referring to the Fish Act and
13 everybody got upset by that term. Maybe it was strong
14 or meaningful or, you know, something, but don't take it
15 in a technical sense, take it as a -- what we are
16 trying to say is we are trying to base our decisions on
17 some science and some science that makes some sense to
18 us.

19 And then lastly, we believe that you ought to
20 regulate recreational fishermen. Now that is an
21 unusual position, I know, in some organization. It is
22 not in ours. When we recovered red fish in -- red drum

1 in the Gulf of Mexico, the very first thing we did in
2 the State of Florida was we put a moratorium on red
3 drum. I think it was three, maybe four years before
4 you could catch one. We have done it with speckled
5 trout. We have done it with all sorts of species up
6 and down the coast. We are not in the last bit afraid
7 of regulating recreational fishermen.

8 This is -- here is one I didn't read. This is
9 part of our conservation program. And what I want to
10 talk about is essentially what the three things that --
11 you know, these are things that we have done in our
12 basic conservation program. We have tried to do these
13 at the state level. We have been somewhat successful.

14 We have tried to do these at the regional level, the
15 regional fishery management councils, and we have tried
16 to do this at the international level, ICAT and other
17 international organizations.

18 The first one is we think that you ought to
19 focus -- one of the focuses we have had, at least, is
20 on gear, destructive gear. Somebody once asked me, in
21 a forum much like this, if CCA was an anti-commercial
22 organization. And what I said was was clearly we are

1 not. What we are is we are an anti-waste organization,
2 be that our waste or a commercial fishermen's waste.
3 And the gear that we have gone ahead and banned in
4 various states is gear that we thought was wasteful and
5 was harmful to the conservation of the resource.

6 And so we -- people are familiar with net
7 bans. I think we have them in seven states. We banned
8 fish traps in the State of Florida, as I mentioned
9 before. Actually, I think they are banned in every
10 place in the Gulf of Mexico except for the Gulf of
11 Mexico and I think that actually goes into place this
12 year or next year. So --

13 PARTICIPANT: 2007.

14 MR. HAYES: 2007. Okay. I knew it was
15 coming.

16 The other one is game fish. As I said before,
17 you know, we are big believers in game fish,
18 particularly species that are predominantly
19 recreational fish. We think game fish makes a lot of
20 sense. So we favor that for striped bass, we favor
21 that for red drum, we don't favor a game fish for
22 haddock, pollock. You know, it is not a universal

1 statement. It is designed to focus on those species
2 that are predominantly recreational fisheries and
3 predominantly accessible to recreational fishermen.

4 And the last one is right sizing the
5 commercial fishery. We think this, in the next few
6 years, from our conservation program, is going to be
7 one of the most important things that we are doing.
8 And I will give you one example of it because it is
9 something we are actually doing. We have been doing it
10 for about five years.

11 The State of Texas, as I think people know
12 here, doesn't have a territorial sea the size of
13 everybody else's. It is bigger because it is Texas. It
14 turns out it is three marine leagues. So it is about
15 nine or ten miles depending on how you define a league.

16 You guys can all decide what a league is. It has got
17 about six definitions.

18 But it allows for two things. It allows for a
19 territorial sea shrimp fishery and it allows for an
20 inland fishery. And just so we get our topics right,
21 an inland fishery to us is one that is inside or
22 shoreward of the baseline. So it is a bay fishery.

1 And we found out, oh, I don't know, maybe about six
2 years ago, we felt that the shrimp industry or shrimp
3 fishery in the State of Texas was oversized, if you
4 will, and this is -- we are talking about territorial
5 sea and inland fisheries.

6 So what we did is we went to the governor --
7 and you probably remember who the governor was, it was
8 George Bush. And we went to him and we said look, what
9 we want you to do is we want you to tax us. We want a
10 \$3 surcharge on every recreational -- marine
11 recreational permit in the State of Texas and we will
12 collect that money and we will go ahead and we will use
13 that money for the purposes of buying out and right
14 sizing the shrimp fishery in the State of Texas.

15 We are about halfway there. It takes a long
16 time. You know, we can only -- I think there is 980
17 licenses. So we don't get a lot of money out of it. We
18 get about 3 million a year. It is a, you know, a
19 voluntary process. You have to be willing to buy, you
20 know, willing buyer/willing seller arrangement. But we
21 have reduced that fishery by, I would say, half at this
22 point. Maybe from 38 down to about 19, 1,800 vessels.

1 The target there is to not eliminate the
2 fishery, but make that fishery a viable fishery in the
3 State of Texas and protect habitat and all of those
4 things that go along with it. Shrimp fisheries are
5 particularly destructive. So we are trying to work
6 with the shrimp industry to kind of -- to get it to
7 work out. But that, as we see it from a standpoint of
8 moving forward, is the -- is one of the bigger things
9 that we are going to need to be doing.

10 Now the last one, permitting is supposed to
11 look like the rest of them and that is why I left it to
12 the last. As I said before, we believe that every
13 recreational fisherman ought to be permitted. We
14 understand that recreational fishermen, particularly in
15 the northeast, view it as a tax, they view it as a
16 burden, they view it as something that is an impediment
17 to going out and accessing the resource, but from CCA's
18 perspective, every state that we have, except for the
19 State of Maine, George, we don't work on this one. We
20 almost got booted out of the legislature I understand
21 one year trying to do this.

22 But we believe very strongly that you ought to

1 number them and the reason you ought to go ahead and
2 identify them is because you can then begin to narrow
3 the universe of the people you are getting the
4 statistics from.

5 Mike talked a little bit before about how we
6 are just starting to get economic information. We are
7 just starting to kind of get together the kinds of
8 numbers that are persuasive, if you will, in a
9 regulatory standpoint and are persuasive to public
10 policy makers like yourselves.

11 Those are new things to recreational fishing
12 and what we see in the permitting process is that the
13 permitting process will give us a universe in which we
14 can begin to concentrate some of that information and
15 improve it significantly and subsequently, improve the
16 way in which recreational fishermen are managed.

17 I want to talk a little bit about sort of the
18 difference between us. I like this concept because I
19 think oftentimes people think that recreational and
20 commercial fishermen are just adverse to each other and
21 they are really not adverse to each other. The overlap
22 is surprisingly small, but overlap does exist. There

1 are differences, there is no question. And what I have
2 tried to do is capture at least how I look at it.

3 If you look, first of all, as to, you know,
4 how they are managed, they are managed differently.
5 Commercial fishermen, a smaller group, easier to
6 identify. They have got VMS, they have got licenses,
7 they have got lots of things and they have got very
8 good reporting. So you can put quotas on them and you
9 can enforce those quotas because you have real time
10 information to do it.

11 They have trip limits, they have seasons, they
12 have size limits. I didn't put your favorites on, which
13 are time and area closures, but they have time and area
14 closures. Time and area closures work very well in
15 commercial fisheries. There is no question about it.

16 I did note one thing and maybe Barbara
17 could -- maybe a little later could help me with this.

18 I don't think of all of that stacking of marine
19 protected areas that went on in here a little while ago
20 in both the Gulf and in New England, I believe that no
21 recreational fishing is excluded from any of those.
22 Now I am not sure about New England; I am positive

1 about the gulf.

2 Although Bobbi referred to it as a no fishing
3 zone, it turns out that bill fishing has been allotted
4 in that zone since day one. It has never been closed
5 for bill fishing. So it is not a no fishing zone.

6 But, you know, there is a significant difference and I
7 will get to why that difference exists in a minute.

8 Recreational fishermen, traditionally bag size
9 limit seasons. Somebody wrote a report, recently,
10 about how recreational fishermen were out of control
11 and might be taking 4 percent of the fishery and, you
12 know, they have got these bag limits and size limits
13 and seasons and, my goodness, you know, this doesn't
14 work.

15 I would suggest that anybody that is sort of
16 taking that tact ought to take a quick look at every
17 state recreational fishery in this country and in the
18 world. And what they will find out very, very quickly
19 is they are all managed the same way. They are all
20 managed with bag limits, size limits and seasons. And
21 there are some very definite reasons why that is the
22 case and I am going to get to those in the next slide.

1 I think.

2 The difference between these two is, and I
3 capture this -- you know, I think I captured this. I
4 hope I don't offend anybody. That commercial
5 fishermen -- the value of commercial fishing is to
6 put fish on the dock. That is the point. That is what
7 you are trying to achieve there. If you go out, as
8 Barbara has talked about, and you sit out there next to
9 it four or five days waiting for the weather to shift,
10 that is not a good thing. That is not something that
11 is good for commercial fishing. So actually achieving
12 success there is putting the fish on the dock. That is
13 an extremely important part of that activity.

14 Recreational fishing, we can be pretty
15 inefficient and we like being inefficient. If you look
16 at particularly, you know, inshore fisheries -- and
17 there is lots of these. I am not talking about
18 essentially trout and bass and that kind of fishery,
19 but to inshore marine recreational fishery, there are a
20 number of them in this country where people fish, you
21 know, with barbarous hooks, they fish -- it is all
22 catch and release. They have got all sorts of ways to

1 make it more difficult.

2 We run a couple of tournaments that
3 essentially you have to take the worst lure in your box
4 and use that to see what you can catch with it. You
5 know, that kind of thing. Recreational fishing doesn't
6 require you to catch one. It is helpful if you catch
7 one and there isn't anybody in here who doesn't like to
8 catch one, but it isn't what produces the value. It is
9 participating in the activity. And that is the
10 difference between us and the commercial fisheries.

11 There is no value in participating in
12 commercial fishing per se. You have got to actually
13 deliver something. It does make it -- it makes them
14 very different and frankly, recreational fishermen -- I
15 say this a lot and I am the perfect epitome of it, I
16 really am. We are pretty inefficient.

17 We use inefficient gear by and large. We now
18 have all sorts of wonderful electronics and guys like
19 Bob and Bobbi, they actually know how to use those
20 electronics, but, you know, your average recreational
21 fisherman, I can assure you, is an extraordinarily
22 inefficient guy. And so what that person needs to have

1 is a very healthy resource in order to participate in
2 that activity. He has got to make it easier.

3 It is one of the reasons in fisheries like
4 striped bass and in red drum when they became to
5 recover -- or summer flounder is the present one, when
6 they begin to recover, you start seeing increased
7 participation by recreational fishermen. It is not
8 that they didn't like it before, it is that it got
9 easier. It is not the high end guy, it is the low end
10 guy that brings the economic value to recreational
11 fishing.

12 Oh, that is it. I have -- by God, I have put
13 out -- I have got ahead of my slides. I just -- I want
14 to just mention the second one because I think the
15 second one is important to us as well. I have talked
16 about sustainable fishing. I want to talk about
17 access. That is the second half of this thing.

18 If recreational fishing doesn't have access to
19 the resource -- and you can go to the next slide if you
20 want -- we have a significant problem. It is the
21 reason that we filed the suit on the Maxwell Banks.
22 Anybody that has ever seen this thing, you know,

1 frankly the coast -- and Bobbi put it up there, it is
2 pretty far offshore. I would guess, I don't know, maybe
3 a hundred recreational fishermen have access to it. It
4 is probably more of a charterboat fishery than anything
5 else. But we sued on it essentially based on the
6 principle. And the principle in that case was twofold.

7

8 One, we don't like the process. We didn't
9 think we were allowed to participate in the process.
10 It was a council process, but frankly, it was a
11 decision made at the last moment and we didn't like it.

12 But the second part of that was we didn't like the
13 principle of using the Magnuson Act to deny us access
14 when we weren't in any way the source of the problem
15 that you were trying to solve.

16 What they were trying to solve was the
17 overfishing of gag grouper in about 400 feet of water.

18 What they banned was surface trawling in the first 20
19 feet. We didn't think that made a lot of sense to us.
20 And that is why we ultimately went ahead and sued on
21 that case.

22 That case, by the way, got settled and Bobbi

1 could talk about it, but we are off into about round
2 five in that case, but that case may go on forever. It
3 is a lawyer's nightmare. Actually, it is a client's
4 nightmare. It is probably a lawyer's dream.

5 Physical access. You know, we spent a lot of
6 money in this country, Wallop-Breaux and other places,
7 you know, trying to make sure we have got boat ramps,
8 fishing peers. You know, we have promoted
9 charterboats. We work very closely with the
10 charterboat industry. I like to say they carry our
11 members. They are an important element of getting
12 access to the resource.

13 As Bob knows, we objected to the limited entry
14 system on charterboats in the Gulf of Mexico. We did
15 it on exactly the same principle. It was limiting our
16 access to the resource and we didn't like that. And so
17 although it did get a thrill I will give you that.

18 Open beaches. You will see a lot of activity
19 amongst groups, not CCA so much, but there is a lot of
20 activity amongst groups right now, particularly dealing
21 with the park service and others, about access to
22 beaches. You know, on a beach, you go fishing. If you

1 can't get on the beach, you can't go fishing.

2 Now obviously when I talk about access, I have
3 an overlay that says remember we are the Coastal
4 Conservation Association. We are not just out there
5 raping and pillaging the resource. Two, we do not want
6 that access to infringe on the basic health of either
7 the environment or on the resource of which we are
8 trying to catch because as I said, we need a lot of
9 them. So the more we have got the merrier.

10 The second part of this is something that I
11 think is a little more germane to your committee and
12 that is what we call regulatory access. People view
13 licensing as a limitation on access. We don't, but some
14 people do.

15 You know, we view allocations as a limitation
16 on access. If you have got a real small allocation,
17 that turns out in lots of fisheries to be a big
18 problem. You have got closed areas. They are
19 obviously a limitation on access and you have got
20 marine reserves, be they science reserves or habitat
21 reserves or whatever those reserves are. They are
22 limitations on access.

1 Now I wrote -- I suppose people don't know
2 this, Bob didn't say this, but about three years ago,
3 four years ago, five years ago, I wrote this bill
4 called the Freedom to Fish Act and Senator Hutchinson
5 and Senator Breaux, at the time, were kind enough
6 introduce it and it has been reintroduced a couple of
7 times and but it is based on certain principles and I
8 think those principles are something that we think is
9 important.

10 If you are going to deny the public access to
11 a public resource and the public -- and I do mean this
12 also the commercial public, all the public, you have to
13 go through a process and that process has to have two
14 things -- and it is one of the reasons we are so
15 comfortable at the councils -- a highly public process.

16 I can't remember who it was, but they said that, you
17 know, council processes are highly public. It is
18 participatory democracy, it is a public process the
19 recreational fishermen are very comfortable working in
20 it. That is one.

21 The second thing you have to have by way of
22 processes, you have got to know who is in charge. If

1 you are talking about managing fisheries, then what you
2 have to look at is a management system that has
3 somebody in charge. One person. Now what we have seen
4 in the MPA process, and one of the things that kind of
5 discourages us, is I suppose you could argue that the
6 President is in charge, but it is a little bit
7 disturbing to find out the guy closed half of the area
8 off the northwest corner of the State of Hawaii to
9 recreational fishing in an executive order, which
10 nobody participated in. We find that a little
11 disturbing.

12 When the Bush Administration came in, we asked
13 the Bush Administration to do a public process on that.

14 And now I don't have any members out there. It is
15 just -- you know, it is just sort of saying it is a
16 little disturbing, right? So we asked them to go ahead
17 and do a public process and that process is going on
18 now. I haven't participated in it, but I suspect that
19 there is somebody here from Hawaii who has. But that
20 process is going on and involves the states, it
21 involves stakeholders and it involves a clear and
22 definitive area that people can talk about. So it is a

1 good public process.

2 What we are concerned about in this process is
3 two things and I will speak to your consensus document
4 if I could. One is you have to have one person in
5 charge. If you are going to manage fisheries in this
6 country, you have got a fishery management system, it
7 works, people get it, they participate in it, they like
8 it and it produces sound management.

9 It also produces discussions and sound
10 management about things like MPA's, time and area
11 closures I call them, and no fishing zones, which I
12 think you called marine reserves. But basically those
13 discussions are going on today as part of a fishery
14 management system. So that -- and for us, that is
15 where we would leave it.

16 So we wouldn't create a layer to interact with
17 the State of Massachusetts or something. We would
18 actually go, you know, novelly, to the director of
19 fisheries in the State of Massachusetts, who is on the
20 Council, and say it is your job. You have got to be
21 working -- you have got to make sure that you are
22 working with your planning agencies and your other

1 agencies to ensure that that activity is going on. So
2 all I am suggesting is, the mechanism is there to do a
3 lot of the stuff that I think you are trying to do.

4 The second part of this is we suspect that --
5 you know, this may be unpopular, but we want a known
6 management problem, you know, a real problem, you know,
7 something that you are going to address. I mean, is it
8 habitat? Is it a need for better science? Is it a
9 need for ecosystem management? I am not sure what that
10 is and I am not sure how to define it, but, you know,
11 maybe if you could define it for me, I could figure out
12 how to apply it.

13 But a real problem, not something that
14 somebody just says, isn't this a hell of a good idea.
15 Let's have a string of these along the coast of Alaska.

16 Boy, what a great idea. We will stipulate, by the
17 way, that if you put no fishing zones in 20 percent of
18 the ocean, that as long as it wasn't a hundred and, you
19 know, eighty miles, a hundred and sixty miles out to
20 two hundred, I mean, that would make it obviously quite
21 as positive an impact, but if you, you know, put it out
22 there at the right place, clearly you would improve

1 fisheries, but to what end you would improve them, I
2 have no idea.

3 Scientifically supported. I took out sound
4 science there. I know -- I can't remember -- I am
5 pretty sure I put sound science in the Freedom to Fish
6 Act and everybody took me to task for it and I thought
7 well, what is the right word. I asked a group of
8 environmentalists. I said what is the right word.
9 Four months later they came back and said we really
10 couldn't come up with one.

11 The concept is it has got to be part of the
12 solution and this, to me, I am going to take -- say,
13 periodic review is important. Frankly, all of your
14 MPA's in New England, you know, they are all based on
15 periodic reviews. There isn't any. There ought to be a
16 plan on how you go ahead and review those things.

17 And then lastly, you have to preserve public
18 access if it is at all possible. Clearly, there are
19 places where no fishing zones are appropriate. There
20 is no question about that. I favorite it with the
21 Monitor Sanctuary. But even there maybe you could add
22 fishing if you are trawling for marlin or something.

1 But they are clearly appropriate some places. I have
2 become convinced that science reserves may make some
3 sense, but they have to be the last resort not the
4 first take. You don't start on day one in saying look,
5 our goal here is to limit the public's access to that
6 resource. With that, I will give up.

7 MR. ZALES: Thank you, Bob. If we could, I
8 would like to hold questions and let Bobbi do her
9 presentation and then ask questions of both people.

10 MS. WALKER: You are going to have to hit the
11 button on the first and second slide.

12 I am here now representing -- I have got
13 another hat on -- the National Association of
14 Charterboat Operators. I am the executive director and
15 we have over 3,300 members across the United States and
16 we support MPA's that are science-based that only
17 eliminate recreational fishing activity when scientific
18 evidence supports it, allows for public participations,
19 is monitored on a regular basis, is reviewed every five
20 years to assure that goals are being achieved.

21 Coordination and cooperation between local,
22 state and federal entities, which is something that Bob

1 Zales referred to earlier about the estuaries and when
2 you put in an MPA in federal waters, how is that MPA
3 affected by state waters or local waters.

4 Under science-based, we believe in protecting
5 areas viable to the conservation of species and
6 habitats such as spawning and nursery grounds. We
7 supported the Madison-Swanson closure to bottom fishing
8 to protect spawning gags or unique habitats.

9 In eliminating, we only eliminate recreational
10 fishing activity when scientific evidence supports it.

11 We believe that baselines need to be established prior
12 to the implementation. Recreational anglers need to
13 understand what will be protected with the MPA and how
14 their activity adversely affects the objectives of the
15 MPA.

16 Allows for public participation. Compliance
17 with MPA regulations are better obtained when the
18 public has an opportunity to participate in their
19 development and in their goals. Public acceptance of
20 the various types of MPA's and MMA's is crucial to the
21 establishment. If monitored on a regular basis, as I
22 said before, baselines needs to be established prior to

1 implementing an MPA or an MMA. Goals needs to be
2 identified and published.

3 Time lines need to be estimated for reaching
4 goals. Monitoring schedules should be established and
5 reported on a regular basis. And I know in our council
6 process, in the Gulf of Mexico, we receive updates
7 every year and we would think that you should publish
8 updates at a minimum of every year.

9 Reviewed every five years to assure the goals
10 are being achieved. And what we mean by that is that
11 right now currently the councils are the ones that
12 implement the MPA's so that there would be a review
13 process publicly. You take the baseline numbers and
14 give progress reports. This will insure public
15 support, it will give you reports on enforcement to
16 know what the effectiveness is and it will help foster
17 compliance through outreach and education.

18 You must have local, state and federal
19 entities support the goals of an MPA. They will help
20 through enforcement and joint plans that will enhance
21 the ability to reach the goals. Mine was short and
22 sweet.

1 MR. ZALES: Thank you, Bobbi.

2 Any questions? Okay. Michael.

3 MR. NUSSMAN: I don't have a question, which
4 may surprise you, but nonetheless, I wanted to just
5 comment for a second. Bob Fletcher, he called me
6 yesterday and wanted for me to pass his regret for not
7 being here. His father is in the hospital and I don't
8 think they know how, you know, the nature of the issue
9 right now. So he was very concerned and wanted to be
10 here, but felt like he couldn't leave the west coast
11 right now. So just on his behalf, I wanted to express
12 his regret in not being here. So thanks.

13 MR. ZALES: Tundi.

14 DR. AGARDY: I have a question for you, Bobbi.
15 Thanks for making it short and sweet. About how you
16 consider baselines, I wondered if you could just expand
17 on that a little bit. I think maybe there is a
18 differing perception among some of the committee
19 members on what constitutes a baseline. I think the
20 scientists among us would argue that you can't have a
21 baseline unless you have closures because you can't
22 understand what the natural condition is in order to

1 evaluate the effects of fishing, any kind of fishing.
2 And I think what you are getting at, maybe, is the
3 baseline of the current level.

4 MS. WALKER: Exactly.

5 DR. AGARDY: And then you would assume that if
6 you have made a closure, you would expect some kind of
7 improvement.

8 MS. WALKER: Depending on what your goal is.
9 If your goal is to protect a spawning aggregate, like
10 gag in the Madison-Swanson, then certainly every year
11 if you are down there and you are filming, if the MPA
12 is working, you are going to see more spawning gag
13 groupers there. So it depends on what your goal, but I
14 think the only way you are going to know if you reach
15 your goal is to have a baseline to begin with. This is
16 where we are regardless of how bad we may think that
17 baseline is, but you have got to know where you are
18 starting from to know what the accomplishments are of
19 implementing an MPA.

20 DR. AGARDY: Okay. That is -- and you can't
21 really make the statement if you see no improvement in
22 the condition, it wouldn't necessarily be because the

1 closure didn't work, it might be because your
2 baseline -- your starting point is at a point where you
3 are below minimum viable population size or you have
4 reduced the genetic diversity or there are other
5 biodiversity impacts that play into this.

6 So in other words, I think some of us that
7 advocate for the use of MPA's with some element within
8 them of closed areas, advocate for the use of MPA's so
9 that we can better understand and measure the effects
10 of both recreational fishing, commercial fishing and
11 all of the other ways that humans impact the marine
12 environment. So I think we use the term "baseline" a
13 little bit differently from --

14 MS. WALKER: Yes, you do, but I think that
15 going out there to close an area just to close it and
16 say we are going to study it and we are going to find
17 out what it does, if it works, you are going to have a
18 great difficulty getting public participation there.
19 They have to be able to tangibly see what your goals
20 are, what you are trying to reach, and without that
21 outreach and education, if you don't get support from
22 the public, it is not going to work because we don't

1 have the enforcement out there on a daily basis to make
2 sure. No one is going to respect that closed area
3 unless they know what it is for and they know that it
4 is being measured.

5 MR. ZALES: Mark.

6 DR. HIXON: Thanks for you presentations. I
7 have a question for Bob Hayes. In both your
8 presentation on at least one slide and also in
9 Mr. Fletcher's handout, there is this mention of "sound
10 science." Would you provide your definition of sound
11 science, please.

12 MR. HAYES: Let me start with at least the
13 precautionary approach. Let me start with that. CCA
14 testified in 1987 before the Senate that councils ought
15 to adopt a precautionary approach in all management and
16 all development of their science and their management
17 regimes. So when I say sound science, I am talking
18 about something that is fairly loose.

19 We are not talking about counting buffalo,
20 obviously. This is not an easy thing. If anybody in
21 this room could tell me what ecosystem management is
22 and ecosystem designs and biodiversity -- I mean, I get

1 the concept, but a science that had a predicate in it
2 that said that we absolutely can tell you what this
3 means and what the components are of it and how it
4 works is not what we are looking for. That is not
5 sound science to us.

6 Sound science is something more than a simple
7 arbitrary whim that says, okay, what we are going to do
8 is we think this is a hell of an idea. We are going to
9 go out and test it. That, to us, is not very sound
10 science. So I can't give you an exact definition and
11 that was the problem, frankly, that the environmental
12 community had. They couldn't come back with one either,
13 but, you know, I would be more than willing to get a
14 definition of it because I would insert it in the next
15 bill.

16 DR. HIXON: So if I am understanding, you
17 don't have a definition of sound science?

18 MR. HAYES: You can assume that I don't have
19 one and that you don't either.

20 DR. HIXON: I have my own, yes. Thank you.

21 MR. ZALES: Rod, do you have your hand up?

22 DR. FUJITA: I think there is a request for a

1 further explanation from Mark Hixon.

2 DR. CHATWIN: Yes. Can you give us your
3 definition of it, Mark.

4 DR. HIXON: Well, as having been a scientist
5 for 30 some years, my definition involves a peer review
6 process of some type or another, either within an
7 agency or preferably in peer reviewed scientific
8 literature in reputable journals.

9 MS. WALKER: And if I might add, that is what
10 the Council uses also for a definition of sound
11 science.

12 DR. HIXON: Thank you.

13 DR. FUJITA: Yes. I want to make a couple of
14 points. Thanks for your presentations. One is that --
15 one of the problems that the environmental community
16 has with the term "sound science" is that it has been
17 taken to mean scientists supports your position. So it
18 is science with an agenda. And so the appropriate
19 construction of I think what we all want to see is
20 science without an agenda that is peer reviewed. That
21 is a check for objectivity I think is what Dr. Hixon is
22 getting at.

1 MR. HAYES: Actually, I should point out, that
2 is what we are looking for as well.

3 DR. FUJITA: Sure.

4 MR. HAYES: We are not trying to get science
5 to support our position.

6 DR. FUJITA: No, it is objective science.

7 I had a question about -- I was very intrigued
8 by your comments about the buyout of the bay shrimp
9 fishery. We are trying to do something similar on the
10 west coast and what we are -- our theory of victory
11 there is that the buyout won't really work unless we can
12 enclose the buyout in some kind of governance, some
13 policy to prevent the dissipation of the benefits.

14 So you buy all these boats out. There are all
15 kinds of incentives in the fishery to recapitalize in
16 capital stuff because it is still, you know, managed
17 under limited access or open access. So have you
18 considered any kind of policy reforms to protect the
19 investment that you are making in buying all those
20 permits and boats out?

21 MR. HAYES: We have done a couple of things.
22 One, obviously, you know, the first thing you have got

1 to have is a limited entry system. That is obvious.
2 We, on the first tranche, if you will, which was about
3 five years ago, we put in a series of MPA's. We put in
4 a series of areas that were closed to shrimping and we
5 put in a series of measures that were designed to
6 enhance portions of the shrimp fleet, which is where
7 the economic side of it is since that is where the most
8 money comes out of it, and to decrease the other side.

9 It turns out there is two kinds. There is
10 sort of food shrimp and bait shrimp. It turns out bait
11 shrimp is worth a lot of money. It turns out the other
12 is dictated by an import price, which isn't very good.
13 And so we have begun working with the inshore
14 shrimperies to kind of see which -- where we can ship
15 those guys out.

16 Frankly, we have not looked at the efficiency
17 of it yet, but Texas -- this all has to be done through
18 the Texas state legislature. This is not exactly a
19 simple thing to do. There are some proposals today in
20 the Texas state legislature to look at other ways to
21 modernize that fleet and insure that you get the
22 conservation benefit with it.

1 DR. FUJITA: And thirdly, if I may, Bob, I am
2 always puzzled by the presumption in the FFA and in the
3 positions that you have shown us today that -- I mean,
4 the precautionary principle is supposed to protect the
5 long-term national good and the intergenerational
6 equity and all those things.

7 The presumption that, you know, the policy
8 position that you are advocating here basically says,
9 you know, don't limit this one activity that benefits a
10 specific sector of society until you can show, you
11 know, scientifically that it has having a problem or
12 making a problem, having adverse effects on the public
13 trust. My question is, would you support that kind of
14 policy for other activities that benefit a single
15 sector?

16 MR. HAYES: Sure.

17 DR. FUJITA: You know, toxic chemicals. They
18 benefit the chemical industry. Should we presume that
19 they are not having an adverse effect and allow them to
20 be used.

21 MR. HAYES: Well, the question is, are they
22 having an adverse effect. I mean, I just went out and

1 battled two LNG plants on the adverse effect. I didn't
2 have any problem doing that.

3 What we are talking about here is not
4 something that is purely recreational. When I say the
5 public, I mean the public. There are lots of
6 activities that go on in the ocean and if we are going
7 to limit people's access, realizing that access to
8 recreational fishermen, frankly, from a value
9 standpoint and economic standpoint is far more
10 significant, but any limitation on access, even all of
11 that the collection of closed areas that went up there
12 in New England or the Gulf of Mexico, ought to have --
13 you know, you have got to have a scientific basis for
14 that.

15 It ought to be part of a management system.
16 It ought to be the result of a public's -- a public
17 process and it ought to, in the end, have some kind of
18 periodic review in which people can go back and say
19 hey, did we solve the problem we had in the first place
20 or have we just got a big block out there that now
21 mid-water trawls can't go in because 22 years ago we
22 thought that was a good idea.

1 So I am not wed to what was originally in the
2 Freight and the Fish Act, and it was frankly there by
3 design, which was this is a recreational activity and
4 this is something that is purely directed to
5 recreation. I am much more wed to the principle and
6 the process that says if you have got have a big public
7 process and you are going to limit access to this
8 resource, you have got to have some reason to do it and
9 that reason has to basically be reviewed over time to
10 insure that you are achieving the objective you laid
11 out when you first put it out there.

12 MR. ZALES: Barbara.

13 MS. STEVENSON: Yes. Just to the question
14 that was asked of me during Bob's presentation. Closed
15 area two was, and I believe still is, closed to charter
16 party boat vessels that have groundfish permits because
17 you can't fish in groundfish -- it would have been
18 closed to recreational fishing except for two reasons.

19 One reason was it is so far offshore that there was no
20 purely recreational activity there, the charter party
21 boats, the only ones that at that point went there for
22 groundfish. And there was -- since there was no

1 license, there was no way to enforce the closure.

2 MR. ZALES: Bob. Okay. Tony.

3 DR. CHATWIN: Thank you, Bob. This is a
4 question for both speakers really. You both have
5 mentioned how you think it is important for a problem
6 to be identified and then a solution to -- for us to
7 expend energy crafting a solution. So my question to
8 you is, when do you recognize something as a problem.
9 What is your baseline for the recreational -- your
10 members. You know, when are they -- when do they
11 decide there is a problem, we need to do something
12 about it?

13 MS. WALKER: Go first.

14 MR. HAYES: Well, ours is pretty simple. You
15 know, we have 90,000 members, a lot of them are on the
16 water, and they see problems. There are enforcement
17 problems, they are management problems, they are
18 resource problems. We have a pretty -- a fine system
19 that if you are a single member of our organization,
20 within six months, you are going to get heard by a
21 national board and within -- and in that national
22 board, we may identify that as a problem and we will go

1 and try to fix it. Now you are talking about the
2 trigger.

3 DR. CHATWIN: Well, I am talking about --

4 MR. HAYES: We use the same traditional
5 mechanisms everybody else uses. We use, you know,
6 resources declining, our fishing rate is too high.
7 Whatever the traditional management measures are. We
8 have -- maybe I can explain CCA a little bit better.

9 I am pretty certain we have 20 members on
10 fishery management councils. We have 200 members
11 someplace in the Fishery Management System either on
12 advisory committees, on -- at the council level or at a
13 state level. Two hundred maybe way too low. We have
14 fishery management committees in all of our states. I
15 think a small one has probably got 25 people on them.
16 And the triggering mechanism they are using is
17 essentially the same triggering mechanism that is used
18 in that system.

19 DR. CHATWIN: Well, I mean, I think those
20 numbers are impressive, but they don't really address
21 the issue, which is you are telling us that we should
22 include a recommendation for the establishment of a

1 baseline and that everything should be measured in
2 relation to that baseline. Do you apply that same
3 principle to your work? Do you have a number of fish
4 per recreational fisherman? If they are not catching
5 that, if they go out to the water and spend four days
6 fishing for it and they don't catch them, is that when
7 you say, oh, look, we have got to do something?

8 MR. HAYES: No. You know, it is funny. We --
9 I probably didn't mention we have folks sort of just
10 like you, you know, we have good scientists, and most
11 of the management problems that get identified filter
12 through our scientists and by and large, they are the
13 ones that are coming to us identifying the specific
14 problems.

15 You know, I am your basic lawyer. I am not a
16 scientist. And so what I do is I rely on our
17 scientists, on the public scientists, on the councils.

18 We got into the LNG thing, frankly, because the
19 Council and its staff basically started coming to us
20 and saying, hey, we have got a big problem here.

21 DR. CHATWIN: So if I may, this is my final
22 comment. I think that -- oh, I am sorry.

1 MS. WALKER: In the charterboat industry, we
2 work very closely with the National Marine Fishery
3 Service and the different science centers. We are out
4 on the water sometimes more so than your private
5 recreational fisherman that is only working -- or only
6 fishing once a week or once a month. We are out there,
7 four, five, six days a week.

8 We do instill -- when we have catch problems
9 where we know that there is a problem because fish have
10 moved or we feel like, you know, a fishery is over
11 fished, we have gone to councils and said, you know, we
12 think there is a problem. We have encouraged stock
13 assessments. But mainly we depend on the science
14 centers to tell us the status of the stocks and what
15 the problems are or the councils.

16 DR. CHATWIN: Right. And so I mean, this is
17 my comment. I think you should be happy with the
18 content of our draft report here because it espouses a
19 lot of the same values that you have listed there with
20 some very few exceptions, the exceptions related to
21 this baseline issue, scientific burden of proof, et
22 cetera, et cetera, and in your work, you have a very --

1 compared to the mandate of this committee, a very
2 narrow focus.

3 It is a species-specific focus on the game
4 fish and you listed a number of them. And we have
5 interests from -- I mean, all sorts of interests
6 represented on this group and we have to come up with a
7 consensus document that represents the consensus of all
8 these different interests.

9 And I have real trouble saying yes, we should
10 adopt this baseline concept when it can't even be
11 applied when there is a single species focus. You
12 know, we don't have an example of where that is being
13 applied as a baseline, you know. So that is my
14 comment.

15 MS. WALKER: Well, I just told you about the
16 Madison-Swanson where the problem was that that was an
17 area where gag grouper aggregated to spawn and the
18 scientists that did the study and came back and showed
19 us this was, you know, a perfect area that closed to
20 protect the species, they have over the years, since it
21 has been closed, done filming.

22 So you can do it species-specific to a site

1 because that is what they are looking for. They will
2 put the cameras down there and leave them and they are
3 actually counting fish that are coming by. I mean, I
4 think you can do it by species.

5 MR. HAYES: Actually, I should point out that
6 I know that CCA, and I suspect the charterboat industry
7 as well, has endorsed at least one of these complete
8 closed areas off the State of North Carolina that the
9 South Atlantic Council is looking at. It is purely
10 geography. It has almost nothing to do with the
11 species.

12 MR. ZALES: Wally.

13 DR. PEREYRA: Thank you. Bob, first of all, I
14 am pleased to hear that you are not opposed to
15 non-recreational take of marine resources.

16 MR. HAYES: And recreational pollock fishing
17 is important.

18 DR. PEREYRA: But that said, the definition
19 that you gave of a commercial fishery, I probably could
20 accept that as the modus operandi of an open access
21 commercial fishery to try to catch as much fish as you
22 can as fast as you can, but experience in the North

1 Pacific over the last 40 years is I have watched the
2 fisheries evolve into a more rationalized to right
3 spaced managed fishery and I participate in a rather
4 large one up there.

5 The modus operandi has changed dramatically to
6 one of trying to make certain that the long-term
7 viability of the resources there because you have a
8 vested right and also that you are operating to
9 minimize your costs and maximize your revenue. And it
10 changes the whole character in the way which the
11 fisheries is prosecuted, which has been quite positive
12 for the environment. But the question I had has to do
13 with the recreational fishery and that I have seen this
14 in recreational fisheries that are -- that have a lot
15 of participation and they are focused on what I would
16 consider to be trophy fish.

17 For example, the Kenai River. You have got a
18 trophy salmon fishery up there where people are after
19 these very large king salmon and you have very specific
20 bag limits, but that doesn't necessarily prevent a
21 person from still fishing recreationally and catching
22 fish and releasing them and because of the nature of

1 the river and the way in which the fishery is
2 prosecuted, there is probably an unintended mortality
3 from this non-take fishing activity.

4 And very difficult issue to get a handle
5 around and get a measure of it is very important for
6 the long-term sustainability resource. How do you deal
7 with that within your organization and some of these
8 trophy fisheries you have, you know, marine fisheries?

9 MR. HAYES: Yes, bill fish I think is --

10 DR. PEREYRA: Bill fish for example. Maybe
11 some of these groupers or whatever.

12 MR. HAYES: -- a really, really good example.

13 And groupers are good examples. Groupers are a far
14 more difficult problem because when you bring a grouper
15 up, there is some problems.

16 DR. PEREYRA: Yes.

17 MR. HAYES: But let me just use the bill fish
18 example. First of all, we are concerned about this
19 whole concept of post release mortality. The councils
20 have post release mortality figures that they use when
21 they do their stock assessments. So it is factored in.

22 But it is not as accurate and it is certainly not as

1 good as it could be.

2 When I talked a little bit earlier about, you
3 know, regulations don't apply to us even if they hurt,
4 post release mortality is going to hurt, but it is
5 clear to me that we are headed in that -- we, as a
6 community, are headed into addressing that problem.
7 And let me tell you one of the interesting
8 technological things that looks attractive at the
9 moment.

10 There is -- a bunch of us went to Congress and
11 got two-and-a-half million dollars for bill fish
12 research. A big chunk of that money is being used to
13 take a look at using circle hooks in the bill fish
14 fishery with live bait. And there is some preliminary
15 evidence that suggests that if you used it and they
16 were used properly, you could have a significant
17 positive impact on post release mortality.

18 There is an estimate for white marlin, which
19 is the most critical of the marlins -- it is about 15
20 percent of its MSY and it has got some other problems
21 out there because of the bycatch of longline fishery,
22 but from a recreational standpoint, there is a concern

1 that the bycatch mortality there may be as high as 30
2 percent. Well, for people that know U.S. bill fish
3 regulations, the United States is only allowed to land
4 250 marlin, that is it, out of the Atlantic ocean.

5 If we are having a 30 percent bycatch -- a
6 release mortality, we have a serious problem. There
7 are tournaments that catch a thousand of them in a
8 weekend. So that, you know, that right -- that would
9 exceed the same mortality that we are trying to
10 control.

11 So we are starting to do some research on
12 that. There is some federal regulations that they are
13 now talking about to require that and I will let Bobbi
14 talk about the groupers because she is far more
15 familiar with it, but those are real problems and they
16 are going to require real solutions.

17 MS. WALKER: And we have also had some studies
18 done on circle hooks and reef fish in the Gulf of
19 Mexico and right now they are being used voluntarily,
20 but the Council is looking at making them mandatory.

21 MR. ZALES: I have got John and you are next,
22 Bob. John.

1 DR. OGDEN: Oh, okay. Thanks to you both for
2 your presentations. I would like to ask Mr. Hayes a
3 question. I am somewhat mystified that you have
4 actually read what we have written because we -- as
5 Tony said -- I would like to reinforce that point -- we
6 are all about process and if you read this document, we
7 are about the people, about regional stakeholder
8 involvement, about principles and they are of a very
9 general nature that are not prescriptive in the
10 slightest degree.

11 We are about setting goals, we are about
12 evaluating those goals. We are about adaptive
13 management, which essentially is the point at which you
14 say well, maybe we are off on the wrong track on this
15 particular effort and so on and so on.

16 And I would just like to ask you where have --
17 you said you have read this document. Can you give us
18 your opinion as to where we have gone wrong in what you
19 emphasize so strongly, which is basically process and
20 stakeholder involvement?

21 MR. HAYES: There is two things that I would
22 point to that I think are something that ought to -- at

1 least would improve the document. One is this issue of
2 access. At least the one sector of the user groups and
3 in the ocean, access is so vital to the economics of
4 that activity that any limitation on it has to be more
5 than simply a stakeholder process, it has got to be
6 identified as something that is intended to be avoided.

7 DR. OGDEN: What you are saying, then, is that
8 you would like, you know, in a document which is
9 crafted to be essentially encompassing and encompass
10 the people and their many and varied interests -- and
11 you have traveled around this country and asked people
12 is there a problem in the coast and you are damn right
13 there is a problem in the coast, there are all
14 different kinds of problems -- you are asking that this
15 particular stakeholder group, one group essentially, be
16 singled out within this stakeholder driven process for
17 special attention.

18 MR. HAYES: I am asking that access be
19 considered because it is of such importance to one
20 particular sector.

21 DR. OGDEN: To one particular sector.

22 MR. HAYES: And if you missed the point, I am

1 the general counsel of the Coastal Conservation
2 Association. We represent anglers.

3 DR. OGDEN: No, I got you. I got you.

4 MR. ZALES: Okay. Bob.

5 MR. BENDICK: Just a definition of, if you
6 could give us a definition of what a recreational
7 fisherman is and are spear fishermen included in that
8 category and various other methods of taking fish?
9 What is a recreational fisherman?

10 MS. WALKER: Well, I think it is in the
11 Magnuson Act, it defines recreational fishermen, but
12 anybody who is out there taking any species or anything
13 under bag and size limits and under recreational
14 regulations. And so a spear fisherman would be
15 considered recreational.

16 MR. BENDICK: What about the selling of fish
17 taken in -- within that umbrella? How does that fit
18 with the definition?

19 MR. HAYES: I will just give you CCA's point
20 of view. CCA's point of view is if you sell a fish, you
21 are a commercial fisherman. Period.

22 MS. WALKER: The same here.

1 MR. ZALES: Okay. Dave and then I have got
2 one.

3 MR. BENTON: Thanks, Bob. I sort of what to
4 follow up on a couple of the questions that have been
5 floating around here and see if I understand what you
6 are saying and it has to do with the issue of a
7 baseline issue of identifying a problem or a purpose
8 and then a bit about process. So I am going to ask
9 those one at a time. I just wanted to let you know
10 which ones I am going to ask.

11 If I understand it correctly, really what you
12 are saying is that an MPA ought to be -- if it is going
13 to be established, it ought to be established with a
14 purpose to address a problem. Is that right?

15 MS. WALKER: Yes.

16 MR. HAYES: Right.

17 MR. BENTON: Okay. And the reason, in part,
18 for that is if people are going to be displaced
19 because -- or affected, then they ought to know the
20 reason why. That seems like an infinitely reasonable
21 proposition to me, but is that what you are saying?

22 MS. WALKER: Yes.

1 MR. BENTON: Okay. So in order to understand,
2 then, whether the -- to get past that hurdle, in order
3 to understand whether or not this thing is effective in
4 addressing the purpose or the problem, you want to have
5 it evaluated and in order to do that, you have to have
6 an information base against which to judge any change
7 that occurs because of the designation. And that is
8 what you are talking about when you say baseline.

9 MS. WALKER: Exactly because it -- how are you
10 going to know that marine managed area or that marine
11 protected area is even reaching its goal if you are not
12 monitoring it. You know, it is just beyond me and I am
13 just a layman, but it is beyond me how -- you have got
14 to have goals.

15 How are you going to measure them if you don't
16 have a baseline, if you don't have something that you
17 start from that you can tell the public we have denied
18 you access to this area because of this problem. We
19 have researched this area. This is the best area to
20 use for whatever purpose for the recovery of the goal,
21 whatever goal it is.

22 If you can't tell the public it is improving,

1 it is working based on this monitoring schedule, based
2 on this review, you are not going to get public support
3 and if you don't get public support, then you can set up
4 MPA's all over the United States and I promise you none
5 of them are going to work.

6 MR. BENTON: Bob, I have got just one more
7 part of this.

8 MR. ZALES: All right.

9 MR. BENTON: One of the things that we have
10 tried to do is look at process. To me, really what --
11 our work is less about debating the merits of having
12 MPA's because you and the councils have pointed out, and
13 a whole bunch of other people have pointed out, MPA's,
14 maybe under a different name, have been around a long
15 time.

16 MS. WALKER: Have been around a while.

17 MR. BENTON: And but there is an issue about
18 process and one of the -- I think one of the issues
19 that we have is how do you, then, look at the costs,
20 the effects, the impacts on users, say recreational
21 anglers, divers, boaters, whatever, of that designation
22 and whether or not to include -- in our recommendation,

1 whether or not to include something that says you need
2 to look at that and you need to evaluate it when you
3 are thinking about designating an MPA or implementing
4 certain measures in that MPA.

5 And what I am hearing you say is that that is
6 a very important component of trying to get acceptance
7 so that the thing is effective and if you don't do that,
8 then you are going to have a big problem because people
9 won't understand what they are getting, they won't
10 understand the reason that they are being affected or
11 displaced or put, you know, at some disadvantage and
12 that is going to cause -- downstream that is going to
13 cause other issues.

14 MS. WALKER: Zero compliance is what it is
15 going to cause.

16 MR. BENTON: Okay.

17 MS. WALKER: If they don't understand it and
18 you don't educate them in some type of an outreach
19 program as to why this needs to be done and its goals,
20 you are not going to have any compliance and there is
21 not enforcement out there. You are not going to put
22 VMS's on every recreational vessel in the United States.

1 That isn't going to happen. Congress will, I am sure,
2 stop that.

3 So the only way that we have found is
4 compliance is really based on education and outreach
5 and groups feeling like they have been a part of
6 setting the goals, what they want to see happen there.

7 MR. BENTON: So and then I am done. So just
8 to sort of reach closure on all this, for my mind
9 anyway, if these -- if the kinds of things that you
10 have been talking about are not part of a process to
11 establish a national system and to designate individual
12 MPA's into that national system, is there going to be
13 much acceptance for that national system and what is
14 the -- well, Bob knows what the likelihood might be of
15 getting funding for that and that kind of thing back in
16 D.C. He has got more experience than most of us I
17 guess.

18 MR. HAYES: You know, the one thing -- Bobbi
19 is absolutely right about this. When I put up
20 something that sort of showed the difference at the
21 regulatory commercial and recreational, commercial
22 fisheries is a highly regulated activity and the

1 companies, by and large, take on the exercise of
2 educating their employees to what those regulations
3 are.

4 Recreational fishing, by way of numbers -- you
5 are talking 13 million people here -- it is not. It is
6 regulated by season, size limits, bag limits, those
7 kinds of things, but it is not regulated in the same
8 sense and there is no vehicle, natural vehicle, to
9 educate that recreational public about what it is they
10 ought to be complying with.

11 Now if you get a permit, if you get a permit,
12 you get a set of regulations with it, no question about
13 it. Most recreational fishermen know what the season
14 is, they know what the size limit is, they know what
15 the bag limits are and they get it because they -- it
16 doesn't matter where they go fishing, something like
17 that applies.

18 But when you start to take areas and you start
19 to say, okay, you can go over here, but you can't go
20 over there or you shut them down entirely part of the
21 season, half the season, whatever, those are very
22 difficult things for recreational fishermen to feed

1 into their normal response to the activity and the way
2 in which you would have to do that is to educate them.

3 We don't have a -- these folks do because they
4 are in the charterboat business. They have got the
5 ability to go ahead and educate the average charterboat
6 fisherman. The recreational fisherman, we don't have
7 that capability. If you, for example, read all of the
8 press, you know, and Field and Stream, Outdoor Life,
9 all of that stuff, read it. It doesn't talk about oh,
10 by the way, there is a big closed area off of Georges
11 Bank. Oh, George's Bank is too far out, but Stellwagon?
12 Is that it? Anyway something up here that they are
13 talking about, a closed area, and they don't have those
14 things.

15 You have to include that in your process of
16 implementing those because without it, you are going to
17 get no buy-in whatsoever and it is not that they want
18 to go out and violate it and not be -- you know, be out
19 of compliance, they just will out of sheer ignorance
20 for the most part.

21 MR. ZALES: Okay. Mel.

22 MR. MOON: Yes. I would like to thank the

1 speakers for coming and giving their perspectives to
2 us. I appreciate that. My question is to Bobbi. I
3 know you had on your presentation a list of some
4 criteria for these approaches for MPA's to exist and we,
5 as a committee, had the opportunity to meet at one time
6 down in Florida and go to the Keys and have a
7 discussion with the Dry Tortugas and the Keys sanctuary
8 manager, Bill Causey, and we actually had some
9 opportunity to speak candidly with the advisory
10 committee as well.

11 I suspect that you, in your area, have had an
12 experience with that forum as well and I was wondering
13 if you could explain your experience with the proposal
14 of that sanctuary and how it acts with you as a council
15 member and your organization. How is your experience
16 with that sanctuary?

17 MS. WALKER: Well, as you know, they manage
18 the sanctuary. The Council really doesn't have
19 authority over it; however, we have worked together.
20 They come to our council meetings and they give us
21 feedback and reports on what they have done,
22 enforcement reports, what they think.

1 For instance, American red snapper, some of
2 you may know it, they are probably one of the most
3 overfished species, I guess, in the Gulf of Mexico.
4 And Billy has come there and through their studies, you
5 know, they have reported to us that they have seen them
6 spawning now. So we kind of interact like that, Mel,
7 but not often. I don't think we interact with them
8 often enough.

9 MR. HAYES: I should point out one thing that
10 occurred about two weeks ago. Somebody tried to expand
11 the no fishing zone, I think it was the Department of
12 Interior, in the Dry Tortugas and to do that, they have
13 to go to the State of Florida to get their concurrence
14 and that has been stopped by the attorney general in
15 the State of Florida. But no process, no public
16 process, no statement, no nothing just a document that
17 was attached.

18 MR. MOON: I guess I brought it up because I
19 think it is one of those elements that we can look to
20 for sort of a lessons learned type of approach and I
21 was probably assuming that you had applied some of
22 those to your list, but it doesn't sound like that that

1 was true.

2 My other question was, are there other areas
3 in your region that are undergoing a proposed MPA
4 listing that is either by the state or private
5 organizations or the feds?

6 MS. WALKER: Well, in the Gulf, if you
7 remember, I showed you I think there were two slides up
8 there that were proposed areas that are for HAPC's and
9 in the Gulf, we manage those -- once we give them the
10 designation of an HAPC, we manage them through closures
11 or gear restrictions, but I think there is probably
12 several.

13 I know the South Atlantic has just done an
14 extensive -- the South Atlantic Council just did an
15 extensive public hearing process on identifying areas
16 in the South Atlantic that they were looking at for
17 MPA's.

18 MR. ZALES: Okay. We have got about four
19 minutes left. I have got about three people left:
20 George, Max and Larry. George.

21 MR. LAPOINTE: And I will try to be quick.
22 First I want to thank the speaker for grabbing the

1 lightning rod on these kind of issues because they are
2 tough ones. I have a comment about the baseline issue
3 and the access issue that I think is important to
4 discuss in the context of our report and the
5 understanding.

6 First with access. All users are interested
7 in access. Barbara Stevenson doesn't make money if she
8 doesn't have access. A Bar Harbor Ecotourism doesn't --
9 if they don't have access, it doesn't help them. If
10 Mark Hixon can't get into an area to access it for
11 scientific research, it doesn't help him.

12 So the access is, shy of my mother in Missouri
13 having some, you know, peripheral love of the ocean,
14 for the rest of us, the access issue is an important
15 one and it needs to be defined -- identified as an
16 important attribute in our designing a natural -- a
17 national system and then defined in the context of an
18 individual MPA because that is going to be important.

19 And then with the baseline issue, again, I
20 think it is one of definitions whether you are doing
21 from now forward or looking backwards. And that is one
22 that I think we need to be honest about which baseline

1 we are talking about.

2 And if you put it in the context of an
3 industrial chemical we are concerned about, if we have
4 chemical X and George LaPointe is responsible for
5 reducing X from the current level to 50 percent of the
6 current level, that is a great improvement, but 50
7 percent of the current level might still be way too
8 much and we need to define what we are trying to do. I
9 mean, the goal might be getting it down to 1 percent of
10 the current level. And so again, it is one of being
11 honest about which baseline you are discussing as you
12 move forward.

13 MR. PETERSON: Okay. Let me first agree with
14 George on the access question. I think it is much
15 broader than recreational question. It is a question
16 of the ocean is a shared resource. The question is how
17 we are going to share it. Let me also express great
18 appreciation for you all giving us a little course of
19 reality today, of telling us that if we do some things,
20 it probably won't work.

21 Two thoughts. I would recommend we avoid the
22 use of "baseline" because it has a very specific

1 scientific use. And if we are talking about current
2 conditions, just talk about is it an improvement from
3 current conditions. As George says, the improvement
4 may not be enough, but at least everybody knows you
5 started from current conditions in 1989 and this is the
6 improvement or something else and not put the word
7 "baseline" on it. It says a very scientific thing.

8 And finally, the executive order repeatedly
9 used the word "science-based." It doesn't use sound
10 science or pseudo science, it just uses science-based
11 and to that, that speaks to me. I think science is
12 science and I wouldn't put any definitions on it.
13 Anyway, thank you all very much. I really appreciate
14 your participation.

15 MR. MALONEY: Okay. Just a quick question.
16 Again, thank you for being here. As I understand what
17 you all discussed, there has to be a known problem or a
18 problem identified that would trigger action. Is it
19 possible or in your opinion desirable to manage these
20 resources so as to prevent problems occurring?

21 MS. WALKER: Well, are you talking about
22 developing an MPA just to develop an MPA and not have

1 any goal associated with what you are trying to do?

2 MR. MALONEY: You know, most people try to --
3 whether they own housing or whatever, they try to
4 manage things to prevent the occurrence of problems.
5 How does that apply to your premise that you act from a
6 known problem?

7 MS. WALKER: Well, I don't think that any
8 person who currently has access to these areas, without
9 identifying a problem, I don't think you are going to
10 get a whole lot of support in just developing an area
11 unless you have some scientific reason for a study area
12 or something like that, but you are going to have an
13 outreach problem and you are going to have to make sure
14 that you educate those people for why you are doing it.
15 If you don't, it won't matter what you do.

16 MR. HAYES: There is a plan that was
17 attempted, I think it ultimately got turned down by the
18 National Fishery Service, but it was on sarcasm and the
19 whole idea was to take a geographical area and say this
20 is an important spawning area and important nursery
21 area. We ought to do something to insure that it is
22 not harvested. At that point, I think there was one

1 harvester I think was all there was and they
2 grandfathered that fellow in.

3 But that is an example, I think of sitting
4 there and saying, okay, this potentially could be a
5 problem and therefore, we have to take an approach that
6 says we have got to protect this. I don't think any
7 recreational fisherman are opposed to that approach.
8 What they are opposed to is arbitrariness and not being
9 part of the process and not, essentially, knowing why
10 they are doing it. That is where you get the
11 opposition. And I would argue that that is true with
12 commercial fishermen as well.

13 MR. ZALES: Wally, you get the last word.

14 DR. PEREYRA: Again, thanks, Bob, for your
15 enlightenment. I came in on the commercial side.
16 Sometimes I lose sight of the fact that recreational
17 fishing is important too. You mentioned -- Bob, you
18 mentioned earlier about the net ban and down in Florida
19 I believe -- it was one I know for sure -- and that
20 certainly helped to shape the direction of which your
21 commercial and recreational fisheries if you cite
22 demographics.

1 That process that you went through in
2 establishing the net ban, was that done through an open
3 participatory council process like you are supporting
4 or was it done through a more focused lobbied
5 legislative process. And if it was the latter, why did
6 you use the former?

7 MR. HAYES: Let me -- it depends which state
8 you are in. In the State of Texas, it was a
9 legislative process; in the State of Louisiana, it was
10 a legislative process. It was a legislative process in
11 Alabama, South Carolina and I believe Georgia. The
12 only place in which we used the referendum was in --
13 and there are two of these. There is one in the State
14 of California and there is one, which we did not do,
15 but was done this way. And there is one in the State
16 of Florida.

17 I actually had that question asked to me
18 recently by I think Bob Jones or somebody. And he had
19 said, you know, you are in favor of an open public
20 process and why did you use a constitutional referendum
21 to do that. And I thought what could be a more open,
22 public process than a constitutional referendum. You

1 know, the whole State of Florida voted 80 percent in
2 favor of the -- in favor of it. Pretty open. Pretty
3 available to anybody who wants to use that process.

4 And the reason we use that process, frankly,
5 is because at the time, the state regulations in the
6 State of Florida were a highly political process that
7 had to be approved by the cabinet. And so we didn't
8 think that was going to be very lasting. So we
9 proceeded off to a constitutional amendment.

10 DR. PEREYRA: Sometimes minority interests
11 have trouble prevailing in referendum processes. So
12 that been said --

13 MR. HAYES: Public policy-making is a
14 difficult thing.

15 MR. ZALES: Okay. Thank you all and thank Bob
16 and Bobbi for being here and making this presentation
17 and I hope that everybody on the Committee has learned
18 a little bit and been educated a little bit. So thank
19 you all.

20 (Applause.)

21 DR. BROMLEY: Okay. We have a half an hour
22 before we break for lunch and the agenda says that it

1 is time to discuss the process for the review of the
2 synthesis document. Am I -- is this microphone okay
3 now? So let me try to set the stage for that process
4 and I want to do so by going back to September.

5 We met in September and we produced three
6 subcommittee reports. We had a period in November and
7 December in which -- I guess it was primarily November
8 because I think December 6th was the cutoff, but at any
9 rate, the point was, we spent sometime discussing the
10 three subcommittee reports as freestanding entities,
11 getting them sort of right. We produced a January
12 draft, which went to everyone. We made some revisions
13 in February at our meeting. And so that was sort of
14 the February version, which was distributed to us after
15 the February meeting, which I will sort of call the
16 March draft.

17 The March draft of what we have been calling
18 the synthesis report because of the sense -- the way --
19 the synthesis came from the fact that we had three
20 subcommittee documents that we were trying to integrate
21 and it probably would serve us well now to drop the
22 adjective "synthesis." We have a draft report in front

1 of us. We have had it for some time.

2 We asked that by April 15th -- an inauspicious
3 date, I guess, in hindsight -- that by April 15th, we
4 hear from you and we then realized that Friday,
5 April 15th was -- it would be better if we extended the
6 deadline until Monday the 18th, and we did that, but
7 about the 14th of April, we began to get lots of
8 comments, which were wonderful.

9 Those comments tended to follow two
10 categories. Some of them represented new issues,
11 issues that, in a sense, we had not had a chance to
12 discuss thoroughly in our committee, and the other
13 kinds of comments concerned tone and language. So in a
14 sense, the executive committee was faced, when we had
15 to sort of integrate what we heard from most of you on
16 the 18th of April, these two categories.

17 So we did make a distinction at our -- we had
18 an executive committee telephone conference call on the
19 25th and we put off to one side four issues that we
20 felt were new, i.e., had not been adequately discussed.

21 I spelled those out in my letter to you of May 2nd
22 when the report came.

1 One of those was the definition of avoiding
2 harm, One of them was the exclusion of mineral and
3 energy extraction from strictures associated with an
4 MPA, another category was the possible need for
5 additional authority in order to implement MPA's and the
6 fourth category was the weighing, the consideration of
7 benefits and costs and evidence that an MPA was the
8 least cost alternative to accomplish some goal.

9 So those four areas to the executive committee
10 represented new ideas that were not necessarily bad,
11 they were not necessarily good, they were simply new in
12 the sense that we had not had a chance, in our
13 deliberations, to discuss them. So they were put off
14 to one side and my cover memo to you of May 2nd spells
15 that out.

16 On the 14th of April or the 15th, I guess
17 maybe it was the 14th, we received an intervention of
18 hosting from Gil about access and we followed by
19 support from three or four other people saying yes, Gil
20 has a good point.

21 During our conference call, we realized that
22 the access issue, as articulated by Gil and as

1 supported by some other members and as we just sort of
2 went over here, had the potential to be a big issue, a
3 big deal, and I suspect it still is. I asked Bob Zales
4 at that time if he would chair a subcommittee, an ad
5 hoc subcommittee to work on this matter of access and
6 Bob agreed to do it and was joined by Tony and Mark
7 Hixon.

8 So we had kind of an ad hoc subcommittee going
9 to work on this issue of access and they did their work
10 and I assume that they consulted with others on the
11 Committee, which is fine, that is -- they should have
12 done that. And so what you have in your packet is a
13 paragraph that represents the end result of that
14 subcommittee work that Bob and Mark and Tony did in
15 consultation with others.

16 What I am proposing is that after lunch, we
17 start with this paragraph on access and spend some time
18 on it, maybe 15 minutes, maybe more, I am not sure. I
19 don't want to spend much more than that if we don't have
20 to, but I think we need to have a discussion about this
21 paragraph, what it means, what you like about it, what
22 you don't like about it, and then we have to figure out

1 where it goes in the report, assuming that we can reach
2 some agreement on what the language ought to say.

3 So right after lunch, we are going to start
4 with this paragraph on access. It is blank -- I mean,
5 it is not blank. It is a sheet of paper in your packet
6 of proposed language on access. So we will do that
7 first.

8 Aside from that, aside from this language on
9 access, the draft that you have before you and the
10 draft that you have had with you since I guess the 2nd
11 of May is the very best efforts of the executive
12 committee to listen to everything that each of you has
13 said when you sent e-mails into Lauren or to any of us.

14 We have gone back and reworked this draft report
15 extensively sometimes taking one person's submission and
16 sort of really going through it and putting in all of
17 those things, seeing how it looked to us, going back.

18 I hope that it is something that all of you
19 can support. It may not be that way, but let's hope.
20 So what I am going to do after we have hopefully
21 addressed the access issue, I am going to go around the
22 table and each member of the FAC will have two or three

1 minutes. And I want to know only two things. I want o
2 know if you can support the document or I want to know
3 if you can't. And if you can support it, take a minute
4 or two and tell us why you can and if you can't support
5 it, I want to know exactly why and I would like to know
6 what it might take for you to change your mind.

7 We will compile the list of objections if that
8 is the right word for them, Lauren will, maybe we can
9 even project them up here, and we will see how long
10 that list is. We will see what we think in terms of
11 how long it might take us to work through it.

12 We are going to work on that this afternoon.
13 We have a public comment period. We have a good
14 tranche of time tomorrow morning. And at about 11:00
15 tomorrow morning, I am going to call for a straw vote
16 on where we stand. I want to know where this thing
17 settles out. So that is the proposal. Comments?
18 Reactions? George?

19 MR. LAPOINTE: I actually like that process,
20 Mr. Chairman, because it is time to get down to brass
21 tacks and figure out what the problems are and what
22 they aren't. But before we got to that, I wanted to

1 express my appreciation to both the executive committee
2 and staff for getting the document together to the
3 point it is.

4 DR. BROMLEY: Yes.

5 MR. LAPOINTE: I can't -- there is some thorny
6 issues in it, but you have compiled three different --
7 subcommittee reports of three different styles, you and
8 staff, into one document that makes it as easy as
9 possible to have that discussion. And so my thanks to
10 the folks who worked on it.

11 (Applause.)

12 DR. BROMLEY: I will put that in the bank. I
13 may need it later on tomorrow morning.

14 (Laughter.)

15 DR. BROMLEY: And it is not just to me, it is
16 to Lauren, it is to everybody. I am not taking very
17 much credit. Other comments? David.

18 MR. BENTON: Just a question. I would just
19 like to -- so if I understand what you are saying,
20 Mr. Chairman, you don't anticipate going through this
21 document sort of page by page or in some systematic way
22 to go over language, you would rather see whether or

1 not you have general support for it as it is and then
2 work from that? Is that the process?

3 DR. BROMLEY: That is right. That is my sense
4 that we have had since mid December, January to work on
5 language and what you have before you has been
6 languaged and relanguaged and it doesn't mean there
7 aren't some things in there that need work, but I want
8 to go around the table and I want everyone to declare
9 where they stand.

10 MR. BENTON: And then if you have -- let's say
11 you have got -- and I have no idea if this is true.
12 Let's say 60 percent of people say I don't care how it
13 is written, it is --

14 DR. BROMLEY: I am sorry. Could you do --

15 MR. BENTON: Sure. So what happens if, like,
16 you get a split vote then? What do you do next?

17 DR. BROMLEY: We will address a split vote
18 when we see it because it -- I don't know how we will do
19 it because I don't know how the split will come, David.

20 MR. BENTON: Okay.

21 DR. BROMLEY: I hope there won't be much of a
22 split, but if there is, we will see what it looks like.

1 The split will come on issues. The split probably
2 should not come on just the abstractions. The split
3 would need to come on exactly what it is you don't like
4 about the report. Is that fair enough? And then once
5 we see what people do not like about it, why they
6 cannot support it, we will know how we might go. Am I
7 answering your question?

8 MR. BENTON: Yes. I just wanted to know.

9 DR. BROMLEY: Max?

10 MR. PETERSON: Mr. Chairman, I think there is
11 a probably a lot of us that have a fervent hope that we
12 have a consensus report and we don't have any minority
13 reports. I am a little concerned that -- I would
14 recommend that tomorrow we ask people to address
15 unresolved concerns, that -- and I don't see any
16 concerns that I have seen so far that aren't resolvable
17 and I would hope we would resolve them.

18 I am a little concerned about going through
19 the formality of saying do you support the document as
20 it is now written because I think there are -- I have
21 two or three concerns that I think can be addressed and
22 I would rather us spend our time seeing what we can do

1 to address those concerns rather than end up with
2 potentially a polarized situation tomorrow, which I
3 don't think will be helpful. That is just a thought for
4 you to consider overnight maybe.

5 DR. BROMLEY: Is there anything in the
6 proposal that would preclude you from saying I support
7 this document. I am concerned about -- let me restate
8 it. I will -- I, Max Peterson, will support this
9 document, but I have two or three concerns.

10 MR. PETERSON: No.

11 DR. BROMLEY: And here they are.

12 MR. PETERSON: No, I would say that it is my
13 hope to support the document, but I have a couple of
14 unresolved concerns that need to be addressed.

15 DR. BROMLEY: Yes. Yes.

16 MR. PETERSON: I think that is where I am at
17 this point and I suspect there is several others, but
18 my concerns are not concerns that I think can't be
19 resolved and I think the executive committee did a real
20 good job in your writing and so on, but there are 33
21 members of this committee who have an equal voice.

22 DR. BROMLEY: Yes.

1 MR. PETERSON: And I think somehow we need to
2 figure out not to put somebody who was not on the
3 executive committee in the position of well, we don't
4 have the same voice. I think that would be
5 unfortunate.

6 DR. BROMLEY: Oh, indeed.

7 MR. PETERSON: Okay.

8 DR. BROMLEY: Indeed.

9 MR. PETERSON: Thank you.

10 DR. BROMLEY: Yes. Barbara and then Mike
11 Nussman, I guess, and then Tony.

12 MS. STEVENSON: I sort of had the same concern
13 as Max. I have one or two issues that were it not
14 changed, I could not support the document, but we are
15 extremely close and I believe it is resolvable, but I
16 won't be able to say I support it. So I think -- and
17 then I won't be able to say I support it until I know
18 what changes are made because some things may be
19 changed to a position that I then can't support.

20 DR. BROMLEY: Right.

21 MS. STEVENSON: But I think it is important
22 for us to say what our concerns are, group them, and

1 then work on seeing if we can resolve them before we
2 say yes or no on the whole document.

3 DR. BROMLEY: Okay. Mike.

4 MR. NUSSMAN: Mr. Chairman, I am not sure I
5 will add anything to both of these -- both of those
6 comments were really where I was going. What I was
7 going to say was I won't be supporting the document
8 until I get to hear each individual speak -- until we
9 go all the way around and I get to hear the
10 intelligence from the entire committee.

11 You know, I have got a couple of things I am
12 interested in and as I look to those, clearly I am
13 going to look to make sure I -- we have some
14 understanding of what -- of how they are being
15 addressed, but there may be other issues there that in
16 me reading what I have read so far, I don't quite
17 understand or fully comprehend and I would like to hear
18 all that.

19 And if you would, please, you had said what we
20 are going to do this afternoon. Please review that
21 because I am not quite sure if -- you at some point had
22 said you were going to ask us up or down or --

1 DR. BROMLEY: Yes.

2 MR. NUSSMAN: And I am not sure when that was.

3 DR. BROMLEY: Okay. Let me repeat the
4 proposal and it is mainly a proposal is that after
5 lunch, I was going to propose and go around and
6 everybody has two or three minutes to say I support it
7 and here is why or I do not support it and here is why.

8 We are going to make a list of the do not support it
9 and here is why issues, get them up on the board, see
10 if they can be repackaged, collated, bundled together
11 in some way. That was the idea.

12 And then the straw vote was tomorrow morning
13 before we go to the fish exchange, the fish market, was
14 to have -- you know, because we will have had time this
15 afternoon, as well as in the morning, to work on these
16 and I would like to see before lunch tomorrow where we
17 are in this process. That is what I proposed. Tony,
18 did you have your hand up? I had Mike, but -- if you
19 didn't, I am sorry.

20 DR. CHATWIN: Thank you, Mr. Chairman. I
21 think -- I support the approach that you have laid out
22 and I think it is important for us as a committee to

1 define the moment in which we are going to decide
2 whether we can support this or not and we can't wait
3 until Thursday at the last hour for that. And that is
4 the idea behind bringing it, this vote for Wednesday.

5 And I would also say that, you know, I think
6 it is good to go around the table and raise issues. I
7 would hope that we keep to those high bar issues that
8 we stressed in the last round of requests for comments
9 and that not -- that folks don't bring up new things
10 because I think that has been an agreement from this
11 body that we have gone down this road quite far and
12 quite long and this is not the time to bring up new
13 issues. Thank you.

14 DR. BROMLEY: We can sit here for 10 minutes
15 and think about it. I -- Brian.

16 DR. MELZIAN: Thank you, Mr. Chairman. It is
17 perhaps ignorance on my part, but in your May 2nd memo,
18 you listed the four issues.

19 DR. BROMLEY: Yes.

20 DR. MELZIAN: Is it the intent of the
21 Committee to discuss those issues during this meeting
22 or to --

1 DR. BROMLEY: No.

2 DR. MELZIAN: -- delay them at a different --

3 DR. BROMLEY: Yes. The intention of the
4 executive committee is that these are new issues that
5 require more than an hour and a half, or whatever, that
6 we have available. Without prejudice, we are asking
7 that we be allowed to put them off to one side.

8 DR. MELZIAN: For this entire meeting?

9 DR. BROMLEY: For this entire meeting. That
10 these would be issues that the new FAC would address.

11 DR. MELZIAN: Thank you. And why I raise
12 this -- and again, it is my confusion perhaps. We may
13 be able to reach consensus on these issues in May.
14 There was a statement after the four issues. So I just
15 wanted to get a clarification.

16 DR. BROMLEY: Yes. Okay. Yes.

17 DR. MELZIAN: I am not trying to belabor it.

18 DR. BROMLEY: No-no. I have to re-read my
19 memo. Always optimistic I am, aren't I? You know, if
20 we make fast progress and somebody convinces a number
21 of us that some of these are easily fixed, then that is
22 fine, but I did not want -- we did not want these new

1 issues to crowd out time to go to them, to the
2 deliberation of what is before us and what has been
3 before us. Max.

4 MR. PETERSON: Mr. Chairman, I am going to be
5 required to make a motion, which the Chairman cannot
6 speak against he gives up the chair, please. And my
7 motion is that we first hear concerns of all the
8 Committee and that we group them and look at what we
9 can do to resolve them, that we not rule out those four
10 issues because some of those issues were, in fact,
11 discussed three meetings ago like the additional
12 authority we discussed three meetings ago.

13 DR. BROMLEY: Okay.

14 MR. PETERSON: I think those are major issues.

15 DR. BROMLEY: Okay.

16 MR. PETERSON: The meetings of the Committee
17 are not over until the fat lady sings. So I would move
18 that we first hear from the concerns of the Committee
19 and then we decide how to proceed from that point on.
20 And I make that in the form of a motion, Mr. Chairman.

21 DR. BROMLEY: Okay.

22 MR. RADONSKI: Second.

1 DR. BROMLEY: Could you -- that is fine.
2 Could you clarify what you mean when you say we hear
3 from the concerns of the Committee. How would you like
4 to have that -- does that rule out going around the
5 table as proposed?

6 MR. PETERSON: No, I would propose doing that,
7 but I would --

8 DR. BROMLEY: Yes.

9 MR. PETERSON: But I would propose that we not
10 say -- before you do that, I want to say whether you
11 are supporting or not supporting.

12 DR. BROMLEY: I see.

13 MR. PETERSON: I think that is unfortunate to
14 introduce at that point. I think we need to hear the
15 concerns of everybody. I would like to hear concerns
16 of everyone here --

17 DR. BROMLEY: Okay.

18 MR. PETERSON: -- before I am forced to say
19 here is where I stand.

20 DR. BROMLEY: Okay.

21 MR. PETERSON: So I am just suggesting that
22 modification, Mr. Chairman.

1 DR. BROMLEY: Fine. Sure.

2 MR. PETERSON: Okay.

3 DR. BROMLEY: I have been told I can't object
4 to it so I like it. That is fine.

5 (Laughter.)

6 MR. PETERSON: Well, you can if you give up
7 the chair.

8 DR. BROMLEY: So it would be consistent with
9 your idea that we go around the table after lunch,
10 after we have worked on access, and have two or three
11 minutes per person to articulate concerns; is that
12 right?

13 MR. PETERSON: Yes, sir.

14 DR. BROMLEY: Well, when you say concerns, you
15 mean -- did you allow somebody if they are very happy
16 with everything here, they can also speak?

17 MR. PETERSON: Sure.

18 DR. BROMLEY: Yes.

19 MR. PETERSON: They can say I don't really
20 have any concern. I am ready to support it.

21 DR. BROMLEY: Okay.

22 MR. PETERSON: That is fine.

1 DR. BROMLEY: Yes. Good. Do we -- it has
2 been moved and seconded. We did that, right. All in
3 favor? Any other discussion? Yes, Rod.

4 DR. FUJITA: Yes, Mr. Chairman, thank you. I
5 liked the first part of Max's proposal, which I think it
6 would be smart to hear concerns first before calling
7 for a straw vote.

8 DR. BROMLEY: Yes.

9 DR. FUJITA: I am a little concerned, though,
10 about introducing these four other issues. Even though
11 we have discussed some of them, they are not discussed
12 in the synthesis -- or draft report and maybe we can
13 handle them sequentially. You know, we can make a
14 decision on what we have got now and if there is time,
15 we can address these issues.

16 My concern stems from the fact that we are a
17 pretty weighty issue, the issue of cost benefit
18 analysis and new authority. In particular, I have a
19 lot of comments on that and I wouldn't like to see us
20 sort of gloss over them in a rush to, you know, stick
21 them in the document somehow.

22 DR. BROMLEY: Other comments? Yes, Wally?

1 DR. PEREYRA: Yes, Mr. Chairman, I would like
2 to speak in support of Max's motion in its entirety.
3 From my perspective, there are some rather strong
4 statements in the document that I would probably be
5 unwilling to accept as a standalone, but if, in fact,
6 the document were to be modified to provide more
7 balance, I would be willing to accept them. So in
8 response to comments that Rod made, I think that Max's
9 proposal is -- or his motion is in order and should be
10 supported.

11 DR. BROMLEY: Okay. Yes, Tony.

12 DR. CHATWIN: I have a question for the maker
13 of the motion, Mr. Chairman.

14 I would like to hear what you envision is
15 going to be the process to deal with one or more of
16 these four issues, which are so wide in scope.

17 MR. PETERSON: Okay. I am suggesting that we
18 do what the Chairman suggested and that is go around
19 and listen to concerns and if the concerns do relate to
20 those four issues, then the Committee as a whole can
21 decide whether to take them out or not.

22 That is a decision I think this Committee as a

1 whole to decide whether to take it up. I might not
2 want to take up a couple of those. I might want to
3 postpone them. That is up to the Committee as a whole.

4 I am just objecting to the idea of the executive
5 committee deciding what we can and cannot consider at
6 this meeting. I think that is an unsound process.

7 Thank you.

8 DR. BROMLEY: David?

9 MR. BENTON: Thank you, Mr. Chairman. The
10 reason I had asked my question of you earlier about
11 what happens, you know, if there is a split vote or
12 something, I support Max's motion and I suspect that
13 there are some issues in those -- there may be at least
14 one issue in those four, maybe two, that are going to
15 be fairly critical to some people around the table to
16 get discussed.

17 And the reason I asked my previous question is
18 I was sort of hoping we had a plan for how to resolve
19 problems or get to the next step because I believe that
20 the result of this is going to be a lot of people are
21 going to say, well, I can support this document if.
22 And there is going to be a lot of ifs. And so I only

1 flag that now as that I am supporting Max's motion with
2 that in mind that we need to have given some thought,
3 and I am looking to you and Lauren and others, to give
4 some thought as to how we go to that next step because
5 I think that is where we are sort of at.

6 DR. BROMLEY: Yes. George.

7 MR. LAPOINTE: Thank you, Mr. Chairman. I am
8 going to support the motion to get on with discussing
9 the document, which I think is a critical issue. I
10 think the four issues -- I think the access issue is
11 addressable within the context of our discussion. The
12 other four issues, and any other new issues that may
13 come up, my sense is that we need to allocate some time
14 to wrestle with those.

15 If we can find a solution, that is good. If
16 not, we should identify those issues in the
17 transmission of our report to the two secretaries so
18 that they are memorialized as ongoing issues that need
19 resolution. That way we don't slow up approving the
20 report, which I hope we do by Thursday, but we don't
21 lose the issues in future deliberations either.

22 MR. PETERSON: Yes. I would take George's

1 statement as a friendly amendment and I would agree to
2 that.

3 MR. LAPOINTE: I call the question,
4 Mr. Chairman.

5 DR. BROMLEY: Okay. All in favor of the
6 motion say aye.

7 (Chorus of ayes.)

8 DR. BROMLEY: Opposed?

9 (No response.)

10 DR. BROMLEY: Okay. Motion is passed. All
11 right. May I say, Max, that the executive committee,
12 in deciding to put these four off, was not seeking to
13 be -- I forget quite the word you used -- undemocratic,
14 but in fact it came from precisely the opposite, the
15 concern that these were issues about which many members
16 of the Committee had strong feelings and we had not had
17 a chance to freely discuss them.

18 I do agree with you that the issue of
19 authority came up, some other stuff. It was our
20 concern, to protect the minority, that these are
21 potentially contentious issues, which have not been
22 discussed. And that is -- I know you didn't mean that I

1 took it as if we were a bit arbitrary and I would like
2 to set the record straight.

3 MR. PETERSON: No, if you will agree that --
4 we will strike the "undemocratic" if you will strike the
5 word "arbitrary." How about that?

6 DR. BROMLEY: Yes.

7 (Laughter.)

8 DR. BROMLEY: I think on that happy note, we
9 ought to have some lunch. There is a sign-up sheet for
10 dinner coming around. It says 6:00 here, the agenda
11 says 7:00.

12 PARTICIPANT: 6:00 is correct.

13 DR. BROMLEY: All right. So we are asking you
14 to sign. We will see you back here at 1:15.

15 (Whereupon, at 12:15 p.m., a luncheon recess
16 was taken.)

17

18

1 A F T E R N O O N S E S S I O N

2 DR. BROMLEY: I guess we are basically here.
3 Okay. The idea is that we are going to start with the
4 submission on access that Bob Zales' subcommittee did,
5 but Gil asked that he might have a chance to project
6 his initial wording on the screen, right?

7 MR. RADONSKI: Yes.

8 DR. BROMLEY: So I said yes, of course. So
9 Gil, I am going to turn it over to you and let's see
10 where we go with this.

11 MR. RADONSKI: Thank you. We have before us
12 several definitions on access. We heard about the
13 importance of access in the presentations this morning
14 and Dan and the executive committee acceded to the need
15 to discuss access and I asked Dan if I might lead that
16 discussion.

17 I provided an initial definition of access,
18 which came to you in Dan Bromley's cover memo to version
19 five. That is not -- that definition was pretty well
20 rejected because it wasn't very concise and it wasn't
21 very clear. I reworked that definition and the
22 definition is what you see up on the screen now. I

1 will give you just a second to look at it. I think
2 Barbara wants to interrupt, Mr. Chair.

3 MS. STEVENSON: Yes, she does.

4 DR. BROMLEY: Okay.

5 MS. STEVENSON: I have a serious process
6 problem.

7 DR. BROMLEY: Okay.

8 MS. STEVENSON: We have a committee -- we had
9 a subcommittee that you appointed that came forward
10 with proposed language. I don't understand why we are
11 giving preference to someone to present a different
12 idea and not only that, a restructuring of something
13 that they had presented earlier. I think we should
14 start off with the Committee's recommendation and if Gil
15 wants to say the same thing as a comment on the
16 Committee's recommendation, then that is appropriate,
17 but I don't view this as appropriate at all.

18 DR. BROMLEY: Okay. That is fair enough,
19 Barbara. I guess I have been operating all along with
20 the idea that the less procedurally bound up we get,
21 the more -- the better the whole climate might be. So
22 I understand that you might have some process concerns

1 here and I would be happy to overrule myself or
2 whatever. You guys can do what you want.

3 Gil -- I want to avoid procedural jockeying,
4 Barbara, but if I overstepped it to give Gil a slot
5 here, then we can go back and let Bob get his on the
6 board. And it is my understanding that Gil and Bob
7 talked and so I am open. What is the sense of the
8 Committee? I seek your counsel. The fewer motions and
9 amendments and votes and procedural stuff we have the
10 happier I am, but I will accede to whatever this group
11 wants to do. Terry I see and Rob and John.

12 MR. O'HALLORAN: Well, before we adjourned for
13 lunch, at least it was my understanding that we all
14 agreed that we would at least first discuss the
15 definition as put forth by the subcommittee.

16 DR. BROMLEY: Yes.

17 MR. O'HALLORAN: And so that is what I
18 actually thought we were going to do. And then but I
19 have respect for Gil. I mean, I think that that is
20 appropriate that he can bring that up and we talk about
21 it.

22 DR. BROMLEY: Yes. I am sorry. It was my

1 understanding that Gil and Bob talked and Bob sort of
2 thought well, let Gil go ahead and show his language
3 and but Bob, maybe I overstepped there.

4 MR. ZALES: To that point and that is what I
5 was fixing to say. I mean, as the appointed chairman
6 of the subcommittee, Gil and I did talk about it and
7 even though Gil wasn't on the subcommittee, I included
8 him in all of our communications back and forth because
9 he was the one that initially, you know, brought this
10 to the table, so to speak I guess, in recent time
11 anyway. I think it has been discussed more.

12 And, you know, so if it was to take me as
13 chairman of the subcommittee to throw that up there
14 instead of Gil, I will do that, but I didn't have any
15 problem with him doing that and I don't think the other
16 two members of the subcommittee do either.

17 DR. BROMLEY: Well, but Barbara, still, I
18 mean, if you --

19 MS. STEVENSON: So I should have run to you
20 and -- during lunch and say I want to talk before the
21 issue that I am interested in comes up because I have
22 an alternate idea. That is the problem. You know,

1 everything -- I have no idea what Gil wants to say, but
2 everything he wants to say can be said in the context
3 of commenting on what the subcommittee did.

4 DR. BROMLEY: Okay.

5 MS. STEVENSON: But if we are going to change
6 directions and what it is is to curry your favor for
7 you to recognize us before the Committee, I think that
8 is an inappropriate thing to do.

9 DR. BROMLEY: That is fine. My thought was to
10 have a discussion of access. So Gil, I would ask you
11 to withdraw your thing from the screen unless we want
12 to have a vote on it and I hope we don't want to have a
13 vote on it, but Gil, could you --

14 MR. RADONSKI: Yes. You raised this issue
15 using my name talking where I was involved and I just
16 wanted to make my case. If you are going to raise me
17 as an issue, I should have my say. If Barbara don't
18 like it, fine.

19 DR. BROMLEY: Yes. You see, here we are.

20 MR. RADONSKI: Whatever way you want it,
21 Chair. You are the Chair.

22 DR. BROMLEY: I would like to just get some

1 language on access, but go ahead. Okay. I had a
2 couple of hands up here. Rod and then John.

3 DR. FUJITA: Yes, Mr. Chairman.

4 MR. ZALES: To the point, and I might could
5 solve this and this gets to be playing under Robert's
6 Rules and I may be wrong with this, but if we throw up
7 what the subcommittee did and then have Gil come in
8 here and make an amendment to the motion or a
9 substitute or whatever he wants to call it, have
10 somebody second it and then throw his language up there
11 and we can discuss that. And if we are going to play
12 the procedure game that way, then we can do that.

13 DR. BROMLEY: Yes. Okay. Then Bob, would you
14 throw your stuff up on the screen.

15 MR. ZALES: Okay. Do you all have it up?

16 MS. WENZEL: You know, what, Bob, I don't have
17 it typed up, but it is in everyone's --

18 DR. BROMLEY: All right.

19 MR. ZALES: Okay.

20 DR. BROMLEY: It is in everyone's packet. And
21 Barbara, I am sorry for stepping out like that. I am
22 happy to be called up short.

1 MS. STEVENSON: Thank you.

2 DR. BROMLEY: No prejudice, Barbara.

3 MR. ZALES: Okay. Do you need me to read this
4 for the record, I guess, or --

5 DR. BROMLEY: Yes, why don't you read it into
6 the record.

7 MR. ZALES: Okay. The subcommittee was myself
8 and Mark Hixon and Tony.

9 And the bill we came up with reads, "While the
10 Committee has included advice on the minimum duration
11 and goals for different types of MPA's, it has not
12 developed guidance on a prescriptive definition of the
13 levels of protection or degrees of access and use
14 allowed that should be attributed to a given site.
15 Protection measures, including but not limited to the
16 restriction of access to an MPA, and the timing and
17 type of activities permissible within the MPA must be
18 developed by the entity proposing an MPA through a
19 participatory process where the goals and objectives of
20 the MPA have been established. The level of access
21 shall be determined based on and focusing on achieving
22 the stated objectives of the MPA. The participatory

1 process will include all interested and affected
2 parties, and consider all available relevant
3 information."

4 So now if Gil wants to add a substitute
5 motion --

6 DR. BROMLEY: Well, let's be procedural here.

7 If this comes from a duly recognized committee, it is
8 my understanding that it does not require a second. Is
9 that right, Max and Bonnie?

10 MR. ZALES: The way I understand, if it is a
11 committee motion that it stays unless it is amended.

12 DR. BROMLEY: So it comes to a full body as a
13 recommendation of the committee. It doesn't not require
14 a second. This much of Robert I do know.

15 MR. ZALES: Right.

16 DR. BROMLEY: And so it is before us for
17 discussion. Okay. I am going to make a list. Okay.
18 Gil, Dave. Who else had their hand up. John? Anybody
19 else have their hand up, please? Tundi. Okay.
20 Others? Okay. Gil.

21 MR. RADONSKI: Could you put that up now,
22 please.

1 DR. BROMLEY: What, Gil?

2 MR. RADONSKI: If you read that definition,
3 you will see that it is much like most of what the
4 subcommittee has offered, at least the last I don't know
5 how many lines. The first committee -- the
6 subcommittee's suggestion consists of about four lines
7 of recommendation.

8 This is a definition written in definition
9 form. And what I propose is to handle this -- how we
10 would get it into the document is on page 3, line 36 of
11 version five, the word "access" appears. At that point,
12 the word "access" will be boldfaced, which would give it
13 the status of having a definition in the glossary. The
14 wording you see on the screen would be the definition
15 that is added to the glossary. We were wondering how
16 we were going to get it into the document. This is my
17 suggestion for dealing with access.

18 As an editorial comment, access is probably
19 the number one issue, controversial issue of MPA's, and
20 for something to go forward to the secretaries without
21 a definition and stating the complexity of the issue, I
22 think we would fall short of carrying out our mandate.

1 Thank you.

2 DR. BROMLEY: Okay. So you are speaking
3 against the motion basically.

4 MR. RADONSKI: Against.

5 DR. BROMLEY: Yes. Okay. Dave Benton.

6 MR. BENTON: I think I will pass,
7 Mr. Chairman.

8 DR. BROMLEY: Okay. I have John, Tundi,
9 Bonnie, Dolly, Rod and Mark.

10 DR. OGDEN: Well, I guess I am sort of
11 somewhat mystified by this. I guess it is, as Gil just
12 explained, the term "access," which it wasn't clear to
13 me that this word is like so many other words that
14 enters the lexicon and triggers a whole bunch of things
15 that -- many of which I am not aware of, but it would
16 take on the use of that term.

17 Because I would have thought, on reading our
18 document, that essentially in looking at the language
19 that was proposed by the subcommittee, that in fact, we
20 are so -- we have been driven and so faithful to the
21 idea of local representation and stakeholder driven
22 processes and so on that in fact, this issue was a

1 non-issue, but I -- at this point, I guess I am -- I
2 have to defer to -- I think we have touched on a tender
3 area, words do count. And so I am interested in
4 listening to what everybody else has to say on it.

5 DR. BROMLEY: Okay. Tundi.

6 DR. AGARDY: I wanted to support what -- the
7 statement that came out of the Committee and I was
8 looking at it in light of where it might go in the
9 report and would suggest that it could come, if it were
10 adopted, in the middle of page 11, line -- after
11 line 24, which is where we talk about adding existing
12 sites and new sites to the system.

13 I -- if I might react to the thing that Gil
14 put up, I don't see that as being a definition of access
15 at all. I don't think it is a definition. What it is
16 is a -- essentially it is like a regulation on what
17 defines an MPA or how MPA's should be designed. And to
18 me, the entire discussion isn't about individual MPA's
19 and how they should be designed and managed and
20 governed and how they should permit access, but rather
21 about the system.

22 So if we are going to define access, I think

1 we have to recognize that we are talking not about
2 prescribing how MPA's should be designed and guarantee
3 access, but rather how MPA's that are considered as part
4 of the national system, how those access issues might
5 be addressed in considering them.

6 DR. BROMLEY: All right. Thank you. Bonnie.

7 DR. MCCAY: I agree with both Tundi and John.
8 Gil, that is -- with all respect, that is not a
9 definition, that is a recommendation of, you know, a
10 policy statement and I do think that we have already
11 provided for that in what we have here. I mean, I am
12 not at all adverse to it. In fact, I would like to see
13 some language about access, but I think we do need a
14 definition of what we mean by access and this is not
15 that. It is something else.

16 DR. BROMLEY: Good. Thank you. I have Dolly
17 next and then Rod, Mark and Wally.

18 DR. GARZA: Thank you, Mr. Chairman. I guess
19 I was mostly going on a procedural and I think Tundi
20 brought that up. First we need to say, okay, from the
21 subcommittee, this is what they are recommending. Do
22 they have a place on where they were recommending it.

1 So if that is the place that it is recommending, then
2 we as a committee need to do know that.

3 What was brought up that is now on the screen
4 shouldn't be up for discussion right now because it
5 hasn't been submitted as a substitute language or
6 anything. And so our first order of discussion is to
7 what the subcommittee brought forward to us. Do we
8 like it. Does it cover everything we think it should
9 and if it doesn't, then we need something like this on
10 the screen either as a substitute or in addition to,
11 but our first order of business, once this is brought
12 forward by the subcommittee, is to speak to what the
13 subcommittee brought to us.

14 DR. BROMLEY: That is right. That is right.
15 Rod?

16 DR. FUJITA: Thank you, Mr. Chairman. I want
17 to speak in support of the proposed language from the
18 subcommittee. I also want to commend them for working
19 hard to come up with this language. I am sure it took
20 a great deal of effort and compromise to move in the
21 direction they did. So I think it is a good faith
22 effort. I think we should adopt it and insert it into

1 our report.

2 I agree. It is important for us to address
3 this issue, but there are lengthy sections of the
4 report that do speak to the nature of participatory
5 processes and the devolution of these kinds of policy
6 decisions to the local and regional levels. I don't
7 think there is a need for us to articulate a national
8 policy on access in our report.

9 And I also agree that what Gil has offered
10 here is not a definition by any means. The word
11 "should" gives it away, you know, as a prescription, and
12 I think we should try to come up with some kind of
13 clear and simple -- a really acceptable definition of
14 access.

15 DR. BROMLEY: Yes. Let me say that the
16 subcommittee or the committee was -- did not have a
17 position on exactly where it should be inserted, but
18 Tundi, I guess, made the recommendation -- was it you,
19 Tundi?

20 MR. ZALES: Dan, a point of order I guess.

21 DR. BROMLEY: Yes.

22 MR. ZALES: And this goes along with what

1 Dolly said. In order to keep doing this, and that is
2 why I asked Gil a while ago if he wanted to make this
3 as a substitute, it might be if you are going to do
4 this, go ahead and make this as a substitute motion and
5 we can get a second for it and then we can discuss this
6 and move on with what we are doing if we are going to
7 play the procedural deal here.

8 MR. RADONSKI: Okay. I so move.

9 MR. ZALES: I will second it for the purpose
10 of discussion.

11 DR. BROMLEY: Okay. So it has been moved and
12 seconded that this be substituted for the language that
13 the Bob Zales' committee came forward with. Barbara.
14 Wait a minute. Well -- okay. Sorry. What do I do if
15 I have people who is wanting to speak -- I mean, I
16 guess the amendment takes precedence over those who
17 were in the queue to speak.

18 DR. PEREYRA: I would like to be requeued.

19 DR. BROMLEY: You are requeued. Yes. Okay.
20 But Barbara had her hand up and then who?

21 DR. GARZA: Okay. So the only thing we are
22 speaking to now is whether or not we favor or do not

1 favor the substitute language.

2 DR. BROMLEY: That is correct.

3 DR. GARZA: That is it.

4 DR. BROMLEY: That is all we are talking about
5 and I am trying to build a new queue and keep track of
6 everything. So Joe, would you mind helping me. I can't
7 do this. I need help with the queue. So you are over
8 in this right-hand column. So I have got Barbara and
9 then who? Tony, Mark, Terry, George and Wally wanted
10 to get in the new queue and Dolly and Dave Benton and
11 Mike Nussman and that leaves three of you that aren't in
12 the queue.

13 (Laughter.)

14 DR. BROMLEY: Okay. So are we all right? Is
15 it clear what we are discussing, the amendment only.
16 Thanks, Joe. I am sorry to have immersed you in such
17 secretarial duties, but --

18 MS. STEVENSON: Okay. Can I speak now?

19 DR. BROMLEY: All right. Yes, Barbara.

20 MS. STEVENSON: I have a question and the
21 question is, there must be some very strong reason that
22 Gil had objection to the committee language and I am

1 not smart enough to figure out what it is. So I would
2 like for him to explain what the significant difference
3 is in his language and why he so much favors it.

4 DR. BROMLEY: That is fair enough. Am I
5 correct, parliamentarians, that we can ask the mover to
6 elaborate on his reasons?

7 MR. RADONSKI: Yes. I did state the
8 difference for those that were listening.

9 DR. BROMLEY: Okay.

10 MR. RADONSKI: And the first part of the
11 definition --

12 DR. BROMLEY: Try to do it again with a little
13 more diplomacy, Gil.

14 (Laughter.)

15 MR. RADONSKI: It is difficult. The first
16 part of the language of the subcommittee really doesn't
17 pertain to the definition. I said that the last part
18 closely resembles it, but this is the language that I
19 prefer and I think more clearly states it.

20 DR. BROMLEY: Okay. Thank you.

21 Tony Chatwin next.

22 DR. CHATWIN: Thank you, Mr. Chairman. First,

1 a point of clarification. The subcommittee didn't
2 arrive to make a decision on a recommendation for a
3 location of this, but we had talked about, and that is
4 what the first part of this language -- the language
5 that was produced by the subcommittee was intended to
6 sort of be sort of a segue -- the suggestion I had made
7 is that it would come after we talked about the
8 duration tables, you know, the length of the
9 protection, lasting protection.

10 DR. BROMLEY: Okay. So we have two
11 recommendations now.

12 DR. CHATWIN: No. I am just reporting this.

13 DR. BROMLEY: Oh, I see.

14 DR. CHATWIN: So people know where that
15 language came from. We did not come to an agreement
16 and it doesn't matter. I would argue that the language
17 that is up on the screen is very different to the
18 second part of the language that the subcommittee
19 approved because it talks about establishing --
20 demonstrating that acts as some associated activities
21 do not comport before any restrictions can be placed
22 upon these activities or that access. That is

1 fundamentally different to the language that was put
2 here.

3 Here we do recognize that issues of access are
4 defined by right of entry and use, as it refers to
5 activities within an MPA. There is a potential
6 conflict in terms of restricting those -- the use and
7 access and that conflict should be resolved at the site
8 and that we should not, as a group, make any
9 prescriptive recommendations about who should be
10 allowed access and who shouldn't because we don't
11 represent all of the interests that should be
12 represented in such a discussion at the individual
13 site.

14 So I oppose this language and I urge the
15 Committee to think about the values that we have all
16 embraced over these two years, which is participation
17 and that participation leads to effective -- it leads
18 to stewardship and to more effective MPA's. And this
19 language sort of circumvents all that -- those guiding
20 principles that we have espoused. And so I am opposed
21 to this motion.

22 DR. BROMLEY: Thank you.

1 Mark Hixon.

2 DR. HIXON: Thanks, Mr. Chairman. I also am
3 opposed to this amendment on two reasons. One, I agree
4 that it is not a definition, it is actually a
5 recommendation. The word "access" appears three times
6 in the statement; it never is actually defined. I do
7 believe it would be important to include a definition
8 of access in the final document so that it is clear
9 about what we are all meaning by -- when we say the
10 word "access."

11 And secondly, the first statement of this
12 amendment very clearly establishes a burden of proof
13 regarding marine protected areas and is an issue that
14 cuts two ways. Burden of proof language immediately
15 introduces a level of subjectivity into how much proof
16 is enough and I believe the participatory process that
17 we have outlined in our document addresses that issue
18 by bringing the stakeholders together, relying on
19 different sources of knowledge and providing a
20 participatory process where all available relevant
21 information is examined carefully and judgments based
22 on that. So those are my reasonings for opposing this

1 amendment. Thanks.

2 DR. BROMLEY: All right. Thank you.

3 Terry O'Halloran. Let me just run down who
4 is -- then we have George, Wally, Dave, Mike and Bob
5 Zales. Terry, go ahead.

6 MR. O'HALLORAN: Thank you. A couple of
7 comments that people have made here about a definition
8 for access. From reading the subcommittee's language on
9 access, I didn't realize -- I do agree that we needed a
10 definition of access, but that is not what this seems
11 to be intended or what this discussion is about.

12 I am also opposed to this amendment. I like
13 the last sentence about the public participation and I
14 think that that is what our document talked about and I
15 think that is what our -- this proposed language on
16 this that the subcommittee did talks about.

17 The first sentence, I -- it strikes me as
18 taking away the participatory discretion of a group of
19 people coming around and making some decisions based on
20 this particular site and what they feel is best and
21 coming to some kind of consensus.

22 I come from an industry where I would prefer

1 to have access with tourism. I mean, we were talking
2 about access earlier. I mean, access is important to
3 all of us and it certainly is as important to tourism
4 as it is to fishing; however, I can see certain places
5 and certain times where some form of restricted access
6 might be appropriate. If we have this participatory
7 process and we can agree on it, that it might not be
8 able to be demonstrated.

9 So I guess if that -- to use Mark's language,
10 that burden of proof that I think takes away some
11 discretion that I think we might be better to leave
12 with the participants in that particular area to come
13 to their own conclusions on. Thank you.

14 DR. BROMLEY: Thank you.

15 George?

16 MR. LAPOINTE: Pass, Mr. Chairman.

17 DR. BROMLEY: Pass. Wally.

18 DR. PEREYRA: Thanks, Mr. Chairman. I can
19 support the language that Gil is proposing here from
20 several standpoints. First of all, going back to the
21 original presidential document, the executive order, in
22 here it speaks in the -- in Section 1, in the purpose,

1 it speaks quite strongly to the sustainable use as
2 being one of the cornerstones of this executive order
3 and that being the case, access, then, sort of becomes
4 a vehicle by which one gains sustainable use or creates
5 sustainable use.

6 So I think it is important that access be
7 viewed from that standpoint. In this regard, I do
8 think I agree with others that we definitely need to
9 have a definition of access in here just as we have
10 other important concepts that are put forward. Lasting
11 protection, so on and so forth. So I think that that
12 is probably something we can all come to agreement on.

13 We need to come up with a definition of access that we
14 can agree to.

15 And the last point I would like to make
16 regarding my support for this is we have sort of a
17 foundational legal doctrine in this country that you --
18 that one is innocent until proven guilty. This, I
19 think, embraces that. In other words, someone is not
20 going to be denied access. Someone is not going to be
21 judged guilty, in a broad context, until such time as
22 they have proven to, in fact, be guilty.

1 So this would embrace access as being sort
2 of -- I wouldn't call it a preemptive right, but
3 certainly a right for citizens to the marine
4 environment. I think it is important that we recognize
5 that, that they aren't going to be forestalled from
6 doing what they would normally be doing in the
7 environment until such time as they can be shown that
8 in fact it is not consistent with good management or
9 sustainable use.

10 DR. BROMLEY: Okay. All right. Dave, Mike,
11 Bob Zales and Bonnie and now Bob Bendick and Gil.
12 Okay. And then I would sort of like to cut off debate
13 if we can.

14 MR. BENTON: Thank you, Mr. Chairman. This is
15 sort of a question for Gil. If I understand it
16 correctly, you did introduce this as a definition
17 still, correct?

18 MR. RADONSKI: Yes.

19 MR. BENTON: All right. And we have -- but we
20 have heard a number of folks around say that in a way,
21 that is an action item not a definition and maybe we
22 need a definition. And if that is the case, then, I

1 would like you to sort of think about this for a little
2 bit. Perhaps we should very subtly change that so it
3 becomes an objective of the national system as an
4 action and perhaps, then, try and develop a definition
5 of access that would go in the definitional section
6 that would be something along the lines of the ability
7 to enter an MPA for, you know, in order to use the
8 resources for cultural, personal, recreational
9 commercial purposes or something like that.

10 I just wonder if you would entertain, instead
11 of that being a definition, putting that in sort of in
12 the objective section or somewhere where it becomes an
13 actual requirement or a criteria. It would require
14 changing, I think, just about two words.

15 MR. RADONSKI: May I respond, Chair?

16 DR. BROMLEY: May he respond? I am so gun shy
17 now I don't know. Yes, you may respond.

18 MR. RADONSKI: Well, I think that is a very
19 good point and I would accept that. Now we heard a lot
20 of talk against this around the table based on
21 individual MPA's. We are talking about a national
22 system and what qualities an MPA should have to get

1 into a national system. So all this discussion about
2 we have got to leave it up to the local people, this is
3 an ocean resource that belongs to all the citizens of
4 the United States, not to a few locals. So that -- I
5 can't buy off on that idea at all.

6 I do like David's idea of replacing it because
7 I would -- before this is all over, I am going to seek
8 higher elevation of discussion of the term "access" in
9 this report. So this would go a long way towards
10 meeting some of my needs there. Thank you.

11 DR. BROMLEY: Is this a procedural thing,
12 Dolly? Please do.

13 DR. GARZA: So in terms of procedure, the
14 easiest thing to do would be to vote it down and then
15 request that it be placed in the list of objectives and
16 then vote on the language from the subcommittee. To
17 reamend it, to place it somewhere else, would be more
18 difficult.

19 DR. BROMLEY: Yes. Okay. That is right. I
20 mean, can I ask him -- can I ask Gil if he would
21 withdraw his -- I mean, or just vote it down so we can
22 get on, Gil. I mean, why have all these other people

1 speak against it.

2 MR. RADONSKI: I can withdraw it anytime I
3 like. Yes. I would favor the withdrawal. Rather than
4 going to another vote and put it somewhere else, I
5 would withdraw it on the basis that we would handle it
6 as David outlined.

7 DR. BROMLEY: Okay.

8 DR. GARZA: So is that okay with the second,
9 Bob?

10 MR. ZALES: Yes.

11 DR. BROMLEY: So the motion before you is
12 withdrawn.

13 DR. GARZA: So then what we have before us is
14 the language from the subcommittee.

15 DR. BROMLEY: That is right. We are back to
16 the original language.

17 MR. BENTON: So Gil, do you want to make
18 another motion?

19 MR. RADONSKI: Well, I essentially did. I
20 would move that it be put, as you recommended, in
21 the -- what section was it again?

22 MR. BENTON: Objectives.

1 MR. RADONSKI: Objectives.

2 DR. BROMLEY: Wait a minute. Where are we?
3 We have a plea -- we have a need for a definition of
4 what access is and then we have the language of the
5 Zales committee which talks about how it is FAC regards
6 the issue of access, which will be defined in the
7 glossary. Are those the two issues before us? Is that
8 right?

9 MR. NUSSMAN: Say that one more time.

10 DR. BROMLEY: Pardon me?

11 MR. NUSSMAN: Say that one more time.

12 DR. BROMLEY: We have a request, a plea, for a
13 definition of access and I think the way Dave Benton
14 put it was access and use or what I think Gil talked
15 about utilization, right? Getting into a piece of real
16 estate area and then what may one do while they are
17 there, right? That is a definitional need I think.
18 And then we are back to the way the FAC regards that
19 whole issue and the participatory process.

20 DR. GARZA: Okay. What I saw was three
21 things.

22 DR. BROMLEY: Three things.

1 DR. GARZA: One was what the subcommittee has
2 given us.

3 DR. BROMLEY: Yes.

4 DR. GARZA: Okay. Two is placing what Gil has
5 suggested as an objective and three was still a
6 definition of access. Number two and number three are
7 not the same I don't think.

8 DR. BROMLEY: Okay.

9 DR. GARZA: At least people have argued that.

10 DR. BROMLEY: Okay.

11 DR. GARZA: And so in terms of Gil's motion, I
12 would still request that you make it after we make a
13 decision on the subcommittee's report because that is
14 what is before us. So we would vote on that and then
15 we would bring up the issue of this new potential
16 objective and then also the issue of access.

17 DR. BROMLEY: The definition of it.

18 DR. GARZA: That is the process I would seek.

19 DR. BROMLEY: Yes, I like that.

20 MR. PETERSON: Mr. Chairman?

21 DR. BROMLEY: Yes, please. Max is our second
22 parliamentarian.

1 MR. PETERSON: Yes, there is one other
2 approach that could be used and I think might be more
3 fruitful and that would be simply to refer this back to
4 the group that has been working on it based on this
5 discussion, and I know Mark has looked at a definition
6 of access and so on, and let them come back after they
7 have looked at this some more because I do think there
8 needs to be a definition of access.

9 I think there needs to be an objective that
10 includes -- I think we have heard mention to that. I
11 think they can solve that better than we can as a
12 committee of 33. So I would move that we refer this
13 back to the committee.

14 DR. BROMLEY: Okay. Dolly, go ahead.

15 DR. GARZA: But I think we could still vote on
16 what we have in front of us from the subcommittee as
17 before us and the other two could go back to the
18 committee.

19 MR. PETERSON: Not if there is a motion to
20 refer it back to the committee. You can't vote on that
21 motion.

22 DR. GARZA: So did you make that motion?

1 MR. PETERSON: I did. It has not yet been
2 seconded, but it is not a debatable motion.

3 MR. BENTON: Did you just make it?

4 MR. PETERSON: Yes, I made it.

5 MR. BENTON: I will second it.

6 MR. PETERSON: I just think we won't make much
7 progress as a committee as a whole on this.

8 DR. BROMLEY: If the motion to send it back to
9 the committee is not debatable, Barbara, why is your
10 hand up with all due respect?

11 MS. STEVENSON: Clarification is appropriate.

12 DR. BROMLEY: Right.

13 MS. STEVENSON: I want to know what is being
14 sent back. What are we asking the committee and what
15 product we want the committee to come back --

16 DR. BROMLEY: That is right. And when we want
17 it to come back.

18 MS. STEVENSON: And when we want -- and is it
19 appropriate -- the definition of access is important to
20 a broader group than the original charge and is it
21 appropriate to appoint a couple of other committee --
22 larger committee members to sit in on that discussion?

1 DR. BROMLEY: If I may, just procedurally,
2 this is the concern I have. We need, pretty soon, to
3 start going around the room and finding out how people
4 feel about the document and if this thing is off being
5 discussed in committee, I don't know where we are going
6 to be procedurally. So that is just an editorial
7 comment. Others who wish clarification. Okay.
8 George.

9 MR. LAPOINTE: I think you can rule me out of
10 order if you want. I think it is important for the
11 subcommittee, if they do this work, to provide -- you
12 know, some people have said it should be in the
13 objectives. I don't agree. And so they should discuss
14 other spots in the document it would be appropriate.
15 The objective contains sustainable use. That implies
16 access. And so I don't think it should be in the
17 objectives. So, you know, that has got to be part of
18 that discussion as well.

19 DR. BROMLEY: Yes.

20 MR. PETERSON: Mr. Chairman.

21 DR. BROMLEY: Yes.

22 MR. PETERSON: I think just to clarify, it is

1 perfectly within your prerogative to add some people to
2 that committee that have expressed interest. It is
3 perfectly appropriate for them to come back and to
4 recommend whatever they want to.

5 DR. BROMLEY: Yes.

6 MR. PETERSON: They are not stuck with the
7 conversations that have been held.

8 DR. BROMLEY: Yes.

9 MR. PETERSON: And I would clarify the motion
10 to say that I would ask that they bring back a proposal
11 by tomorrow morning.

12 DR. BROMLEY: By tomorrow morning. Tony?

13 DR. CHATWIN: Mr. Chairman, you know, the
14 subcommittee and Gil have debated this issue back and
15 forth extensively. Now there is a proposal to expand
16 that subcommittee, which is probably a good idea, but I
17 don't see that the differences between that language and
18 the language that we as a subcommittee agreed to are
19 reconcilable.

20 I think there are some key terms that are not
21 going to -- I mean, my understanding is that folks who
22 support this language won't support it without those

1 words and folks that don't support that language won't
2 support that with the words.

3 MR. BENTON: Mr. Chairman, it is time for the
4 question. We are debating the motion.

5 DR. BROMLEY: I am sorry, what?

6 MR. BENTON: I said we are debating the
7 motion.

8 DR. BROMLEY: We are debating the motion. I
9 know. I was about to pull the string on this or the
10 cord or whatever. Okay. It is non-debatable. We vote
11 on it. What are we voting on? We are voting on this
12 group being asked to go back, to report by tomorrow
13 morning, with the possibility of adding people to the
14 subcommittee. Is that right?

15 DR. AGARDY: I am sorry. I am completely
16 ignorant on these matters, but if we were to vote and
17 the vote was no, then what happens?

18 DR. BROMLEY: Right. Then we go back and
19 discuss the subcommittee report before you.

20 DR. AGARDY: Okay. All right. Thank you.

21 DR. BROMLEY: Am I -- is that correct, Dolly?

22 DR. GARZA: Yes.

1 DR. BROMLEY: Okay. So a yes vote will
2 activate what I have just said. A no vote will return
3 us back to the language we have before us. Last
4 clarifying questions. Okay. All in favor of the
5 motion say aye.

6 (Chorus of ayes.)

7 DR. BROMLEY: Opposed.

8 (Chorus of noes.)

9 DR. BROMLEY: I am going to ask for a show of
10 hands and I need someone to count, Lauren. All in
11 favor, raise your hand.

12 MS. WENZEL: Raise them high.

13 DR. BROMLEY: Raise them high and only once.

14 MS. WENZEL: 10.

15 DR. BROMLEY: 10. All opposed, raise your
16 hand.

17 MS. WENZEL: 13.

18 DR. BROMLEY: Motion fails, 13 to 10 or 10 to
19 13. It fails. Okay. We are back to the original
20 language right here. So we have a queue, but maybe we
21 need to start a new queue. We have several queues.
22 Bob Bendick is in. Who else would like to speak in

1 favor or against this motion? Bob Zales, Mike Nussman,
2 Barbara Stevenson, David Benton. Okay. Bob.

3 MR. BENDICK: Yes. Now I have two things.
4 One, I am not sure I understood exactly what David was
5 proposing, but is what you were proposing to say that
6 access for appropriate uses should be a goal of a
7 national system of MPA's, but not to say that any
8 particular use or access should have a privileged
9 standing in the process? Is that what you were trying
10 to say?

11 MR. BENTON: Almost. Mr. Chairman, can I
12 respond?

13 DR. BROMLEY: Yes. Please. Please do.

14 MR. BENTON: I just wanted to make sure I had
15 the permission of the Chair to speak.

16 DR. BROMLEY: Yes. Well, take my word for it.

17 MR. BENTON: What I was getting at was
18 listening to the discussion about the language that Gil
19 had and I think it is also germane to this language
20 here that this is not -- that is before us, because the
21 committee language is back before us as I recall.

22 DR. BROMLEY: That is correct.

1 MR. BENTON: Okay. Those are not definitions
2 as we have discussed. So we needed a definition of --
3 in my time to think sort of quickly how to get past the
4 issue, it seemed to me that what you wanted to do is,
5 as an objective for the national system, put as one of
6 its objectives to allow access into the MPA's unless
7 that access, for whatever purpose, was going to be
8 detrimental to the purpose of the MPA.

9 I had not made up my mind really between the
10 language that the committee came up with versus the
11 language Gil had. I could support either one. I was
12 going to support Gil's language. To me, it is sort of
13 six to one, half a dozen to the other.

14 DR. BROMLEY: Okay.

15 MR. BENTON: But I think it needed -- you
16 know, it needs to be either there or in one of the
17 purposes parts of when you do the nominations, that it
18 was not a definition. So I was making it an action
19 item and I think that this access issue ties in quite
20 closely with issues that we heard this morning from the
21 panel about having to identify a problem and a purpose,
22 having baseline kinds of information, not the

1 scientifically defined baseline acts, but just current
2 conditions and something to judge against and being
3 able to sell this to the public.

4 And I think that is what is going on here and
5 I think that there is some folks burying their heads in
6 the sand by not listening closely to some folks --
7 other folks about what is important to them and how to
8 get a program and a system in place that people can buy
9 into.

10 DR. BROMLEY: Okay.

11 MR. BENTON: That is what I was trying to go
12 by.

13 DR. BROMLEY: Bob Zales. Yes, Bob, go ahead.
14 Sorry.

15 MR. BENDICK: Well, I am not sure I fully
16 understand the answer, but I -- you know, I think there
17 is a difference between an expressing an objective to
18 have appropriate access to an MPA and a sort of
19 prerequisite here and I would maintain that on page 11,
20 number 3, we actually have a test. People are talking
21 about a test and hurdles and proof and that sort of
22 thing.

1 And we actually have included a systematic
2 process for setting out appropriate uses of identifying
3 what is the threat, what are the strategies, what is
4 necessary to protect against the threat. And I think
5 that is already built into our process. It establishes
6 a hurdle and I am not sure why that doesn't apply
7 universally to a number of the things that we are
8 doing.

9 It seems to me that the bottom line is that it
10 serves the purpose that is trying to be achieved here
11 creating an objective framework for the restrictions or
12 regulations or procedures of the marine protected area.

13 Again, I wouldn't be adverse to a goal that suggested
14 what we might try to achieve, but I think the standards
15 are already in here and I -- given that, I think the
16 recommendation of the committee, of the subcommittee,
17 reinforces what is on page 11, paragraph 3.

18 DR. BROMLEY: Okay. Thank you.

19 Bob Zales.

20 MR. ZALES: Yes, and I apologize for the
21 subcommittee. We didn't identify where to put this, but
22 Tony was correct and then I guess one reason why I

1 didn't bring it up again, I just kind of assumed that
2 that was a good place to put it. That was early on in
3 our discussion it was there. But in looking this, and
4 I have read this several times and I need clarification
5 on this. On page 3, number 5, where it says,
6 "Protecting cultural resources and proving appropriate,"
7 is "proving" not supposed to be "providing?"

8 MS. WENZEL: Yes.

9 MR. ZALES: Okay. So if that is the case,
10 then I would argue that this thing about access is
11 already under a goal and objective and basically what
12 the subcommittee did was kind of clarify our intent on
13 what access may or may not be. And I would argue, and
14 I apologize to the subcommittee because I didn't send it
15 to them, but I did send it to Gil that we should
16 probably come up with an appropriate definition of
17 access because what the subcommittee did is not a
18 definition of access, but it includes access.

19 The other thing I would like to point out is
20 that I think it was clear, it has been clear all along
21 to me, but especially today with the panel that we
22 heard from this morning, access is not just a term for

1 recreational fishing. Access is a term for everybody,
2 whether you are commercial, a diver or whether you just
3 want to go out there and look or whatever you want to
4 do.

5 And it is clear to me, from reading the
6 objectives, that -- on number 5, that we are going to
7 provide appropriate -- or we recommend providing
8 appropriate access for enjoyment and sustainable use of
9 cultural resources.

10 So what we did with the subcommittee, in my
11 mind anyway, pretty well defines what we are going to
12 do. And all deference to Gil where we talk about it
13 being on a local level, and I still -- and I would
14 argue this, that MPA's are going to be created on a
15 local level, I am still -- I am not going to be
16 supportive and I still don't see where we are going to
17 have one central entity in the United States that is
18 going to say we are going to create an MPA wherever.

19 I think that has got to be up to the local
20 jurisdiction of the various councils at a minimum and
21 maybe even more so in local and state things. But, you
22 know, I would offer, maybe, refining this language a

1 little bit, but, you know, clearly put it in connection
2 with objective number 5 on page 3.

3 DR. BROMLEY: Okay. Good. Mike Nussman.

4 MR. NUSSMAN: Thank you, Bob. I have actually
5 forgot what I am supposed to be talking about. I will
6 go ahead and talk anyway since it took a long time to
7 get here. My comments --

8 DR. BROMLEY: Go ahead, Mike. Sorry.

9 MR. NUSSMAN: My comments, I think, are
10 focused on where I think we are with regard to the
11 issue of access, at least my perception of access.
12 First, I would say to my good friend Bob Zales, I am
13 not sure I can include -- I am not sure that cultural
14 resources captures everything that Bob has implied that
15 it would and I wouldn't be comfortable with that
16 definition in -- with regard to access.

17 With that said, I would say I think the issue
18 on access comes -- as Gil raised it back some weeks or
19 however long, a month ago, I think it comes from a
20 reading of the entire document where we talk about many
21 of the values of the national system, the many things
22 we are trying to promote and achieve in this system and

1 in large measure, not reading anything about access and
2 not having a comfort level by many of us on what is the
3 access threshold.

4 Now there are lots of policy statements in
5 here, and clearly it is within this committee's purview
6 and authority to make a statement on that and it may
7 choose not to, but in effect when we are talking
8 about -- when we, as a committee or the Congress or the
9 secretaries are talking about putting forward closed
10 areas, I mean, the opposite of the closed areas or the
11 issue that becomes is access. Okay. Well, if that
12 means values of these closed areas, well, what is the
13 counterweight there.

14 So I guess part of what I am hearing is okay,
15 we talked a lot about the value of the closed areas,
16 but the value of the access is something I have not
17 spoken to. Now we have surrounded it all with a lot of
18 public process, which goes part of the way towards
19 getting the importance of that access -- it allows the
20 public to make that argument that their access is
21 important, but it is not a policy statement from all of
22 us about what we think about that access.

1 So that is my perception of what the debate is
2 about right here. Whether it is a definition or a
3 place or a goal or an objective, I think there is a
4 degree of discomfort with the -- we have addressed the
5 one side; we have not heard about the other side. So
6 at any rate, I will leave that there. I am not -- I
7 may have an opportunity to speak later on what I think
8 and what I don't think, but that is at least my
9 observation of what we are talking about right now.

10 DR. BROMLEY: Yes. Dolly, am I allowed to
11 make a point of order, a point of information,
12 observation here?

13 DR. GARZA: It is your job.

14 DR. BROMLEY: My job. The first sentence of
15 the proposed language, this is one sort, is it not, it
16 says what we haven't done.

17 DR. GARZA: Sort of background.

18 DR. BROMLEY: It is background. Fair enough?
19 Sentence one is background. Why the committee, blah,
20 blah, blah. Okay? The second sentence, "Protection
21 measures, including but not limited to" in a sense
22 speaks to process. Is that right? And some people

1 have said we have lots of procedural stuff in this
2 document. So we have one sentence about background, we
3 have a second sentence about procedure it seems to me.

4 And then we have a third sentence, which is more
5 prescriptive, right?

6 It is incomplete, I just noticed, Bob. You
7 guys use access and use access and utilization. You
8 get to your last sentence and you say access, you say
9 nothing about use or utilization. So there is, I
10 think, something left out in your third sentence. But
11 the third sentence is more prescriptive I believe. Is
12 that right? So I will just leave it.

13 Okay. Wally. Oh, Tony. I am sorry, Tony.
14 You act like -- since you are on the subcommittee, yes.

15 Well, you are up next. Let's let Wally go and then you
16 speak.

17 DR. CHATWIN: Yes.

18 DR. BROMLEY: I am sorry. Barbara.

19 MS. STEVENSON: No-no. I just wanted to be
20 sure I am on the list.

21 DR. BROMLEY: You are on the list.

22 MS. STEVENSON: I will gladly speak after

1 Tundi.

2 DR. BROMLEY: Yes. All right. Where are we.

3 Wally and then Barbara. Okay. Wally, I am sorry.

4 DR. PEREYRA: In an effort to move the debate
5 along, I would like to offer a motion on a definition
6 of access. So we would have a definition of -- are we
7 still on this motion here?

8 DR. BROMLEY: We are on the --

9 DR. PEREYRA: This is considered to be a
10 definition of access?

11 DR. BROMLEY: No. We are on this language.

12 DR. PEREYRA: All right.

13 DR. BROMLEY: If you have a definition of
14 access, it would be smoother if you brought it in later
15 I think.

16 DR. PEREYRA: I believe so. Yes. Yes. I
17 will --

18 DR. BROMLEY: Okay.

19 DR. PEREYRA: I will end with --

20 DR. BROMLEY: Okay. Now Barbara.

21 MS. STEVENSON: My concerns about access,
22 which obviously I have serious concerns and serious

1 concerns about the definition, because I don't want to
2 tell you how many times I have been told, "Well, you
3 still have access. Go get yourself a rod and reel."
4 So access does need help to be defined.

5 But under the objectives, number 4, says,
6 "Providing the ecologically and economically
7 sustainable use of marine resources for the benefit of
8 individuals, commercial enterprises, communities and
9 the Nation." I thought that covered me. So I was
10 happy not to say a word about access.

11 This language from the subcommittee I have no
12 problem with. It is okay language. I think that if it
13 makes anyone any more comfortable to have it in, it is
14 most likely better on page 11, which is like things
15 that you would -- should have be nominated for the
16 national system.

17 DR. BROMLEY: By the way, if I may, that spot
18 has been recommended by someone else.

19 MS. STEVENSON: That is Tundi's.

20 DR. BROMLEY: That is where she thought it
21 should go.

22 MS. STEVENSON: Right. That is her

1 recommended spot. She wasn't sitting there so I forgot
2 where she was. The third point is that if we put this
3 in, then we do have to define access.

4 DR. BROMLEY: Okay. Now let me tell you who
5 is up. Tony, Mark, Dave Benton, John Osgood, Bonnie,
6 Dolly, Tony Chatwin, Steve and George. And it is 2:15.
7 Tony.

8 DR. CHATWIN: Thank you, Mr. Chairman.
9 Barbara pointed out the language that I was going to
10 bring up. You know, number 4 of the objectives talks
11 about sustainable use and if you go to the glossary, we
12 have defined the definition for sustainable use, which,
13 in my understanding of the issues that are being -- of
14 the concerns that are being raised, this definition
15 should address concerns about what we mean about, you
16 know, use.

17 DR. BROMLEY: This language.

18 DR. CHATWIN: No. What we are really --

19 DR. BROMLEY: We have been here already.

20 DR. CHATWIN: This is independent. This is
21 what we have gotten.

22 DR. BROMLEY: That is right.

1 DR. CHATWIN: And I wanted to bring that to
2 people's attention because we have a definition of use.

3 DR. BROMLEY: Sustainable use.

4 DR. CHATWIN: Now access. I think if we have
5 to define it, we should just define it as right of
6 entry into an MPA. Period. I make that as a motion.

7 DR. BROMLEY: Can you not do that right now?

8 DR. CHATWIN: Just a mean a friendly
9 correction here, privilege of entry.

10 DR. BROMLEY: Well, let's -- okay. That is a
11 wonderful idea. Can you hold it in your pocket for a
12 while, Tony, I am sorry.

13 DR. CHATWIN: Yes. I am happy to hold it.

14 DR. BROMLEY: Yes. Okay. Mark.

15 DR. HIXON: I have been listening intently to
16 each person's comments and I am trying to come up with
17 some common ground here and I have an idea working with
18 Max. On page 3, objective number 4, I do hear the idea
19 that access is an important issue to address under
20 objectives. I hear that.

21 So what Max and I have come up with -- correct
22 me if I am wrong -- is on page 3, objective number 4,

1 which is a broad-sweeping point -- and the reason we
2 are not agreeing with number 5 is number 5 refers
3 solely to cultural resources as Mike Nussman pointed
4 out. Number 4 addresses all marine resources. And we
5 suggest that we insert a phrase at the beginning to
6 that statement that says --

7 DR. BROMLEY: At the beginning of it.

8 DR. HIXON: The beginning of number 4.

9 DR. BROMLEY: Okay.

10 DR. HIXON: And the phrase is, "Providing
11 appropriate access to and" and then continue as it did
12 before. So it would read, "Providing appropriate
13 access to and promoting the ecologically and
14 economically sustainable use of," et cetera and then
15 have a definition in the glossary of access. Now that
16 would just broach the issue of access under the
17 objectives. It is independent of this subcommittee
18 wording, which I agree should be inserted someplace as
19 well. So I am basically reflecting what Barbara just
20 proposed.

21 DR. BROMLEY: We read this as a comment.

22 DR. HIXON: Yes.

1 DR. BROMLEY: Urging the defeat of the
2 language that is before us with the idea that then you
3 will come forward with new language?

4 DR. HIXON: I am not urging defeat of the
5 language. I thought we were done with that.

6 DR. BROMLEY: I mean, we are debating this.

7 DR. HIXON: Yes. I have urged to make
8 cleaner --

9 DR. BROMLEY: If you advocate the defeat of
10 all of this and then once it is defeated, you may offer
11 your suggestion.

12 MR. LAPOINTE: How about a substitute
13 amendment.

14 DR. HIXON: Well, may I clarify?

15 DR. BROMLEY: Yes.

16 DR. HIXON: My comments had to do with
17 inserting this paragraph somewhere in the document that
18 has been proposed, but then also in making sure that
19 access is mentioned explicitly in the objectives.

20 DR. BROMLEY: Okay. I misunderstood you.

21 MR. PETERSON: I will second it.

22 DR. HIXON: That would be an amendment that

1 Max seconds.

2 MR. PETERSON: I will second it and I will
3 also point out that we would put in boldface
4 "sustainable use" on that objective to point out it is a
5 defined term on page 4.

6 DR. BROMLEY: I am going to consult my
7 parliamentarian. I would prefer that we proceed with
8 the discussion of the motion. I think, Dolly, please.

9 DR. GARZA: Right, because we have asked other
10 members to not bring these amendments forward, such as
11 the definition of access, to bring them forward after.

12 Otherwise, we are not -- we didn't give them the
13 opportunity. So vote specifically to the language. We
14 are looking at page 11 is what it sounds like. Then
15 follow up, add it to number 4, define access, blah,
16 blah, blah.

17 MR. PETERSON: You cannot require somebody to
18 delay a motion. You can suggest it, but you can't
19 require it. Neither can the Chair. But anyway, if you
20 want us to delay it, I think Mark and I would be
21 willing to do so, but we are not clear if you adopt
22 this other, how this -- what he is talking about fits

1 into the system.

2 MR. LAPOINTE: Mr. Chairman, I would like to
3 offer a substitute that embodies the language on
4 page 3, objective 4, and that language reads -- help me
5 out because it is your language. My motion is going to
6 have three parts. I will explain it first. One is the
7 change to objective 4 on page 3. The second is the
8 acceptance of the language that the subcommittee came
9 up with and the third is its inclusion on page 11.
10 That is a three-part motion to try to deal with all the
11 three together.

12 MR. BENTON: Second.

13 MR. LAPOINTE: Because I think it gives me
14 comfort to know what the package deal looks like.

15 MR. BENTON: And I will second it.

16 DR. BROMLEY: And moved and seconded. Okay.
17 So we have now a precedential motion, which says to
18 pick up the language --

19 MR. LAPOINTE: To pick up the language and can
20 you -- what is the exact wording. I will put in a
21 motion.

22 MR. PETERSON: "Providing appropriate access

1 to and promoting the ecologically and economically" --

2 DR. BROMLEY: So it would be on page 3,
3 line 33, item 4, there would be an insertion about --

4 MR. LAPOINTE: "Providing appropriate access
5 to and" --

6 DR. BROMLEY: "Providing appropriate access
7 to." Four words.

8 MR. LAPOINTE: And.

9 MR. PETERSON: And.

10 DR. BROMLEY: Five words. Okay.

11 MR. LAPOINTE: Secondly, to accept the
12 language of the subcommittee and insert the language of
13 the subcommittee on page 11 under --

14 DR. BROMLEY: Line -- page 11, line 24.

15 MR. LAPOINTE: Sure.

16 DR. BROMLEY: That was Tundi's point I
17 believe. And the third piece of this, George?

18 MR. LAPOINTE: That was the three.

19 DR. BROMLEY: That is the three.

20 MR. LAPOINTE: The language on page 4, the
21 acceptance of the language and its placement on
22 page 11. I am trying to deal with all three of them.

1 DR. BROMLEY: And that has been seconded, has
2 it?

3 DR. GARZA: Yes.

4 DR. BROMLEY: Okay. So we have before us --
5 well, so these people are -- we are starting a new
6 list. Bob Zales' hand has been up.

7 MR. ZALES: No.

8 DR. BROMLEY: No? Okay. All right. Dave
9 Benton, do you wish to speak on the amendment? No. Is
10 this right now, we ask -- John Ogden, do you wish to
11 speak to the amendment.

12 DR. OGDEN: No.

13 DR. BROMLEY: Dolly?

14 DR. GARZA: Mr. Chairman, I did want to speak
15 initially to the subcommittee's report, which I fully
16 supported, but I also do support the amendment. I
17 think it covers a lot of ground. And then following
18 that, it is my understanding we would look at the
19 definition of access.

20 DR. BROMLEY: That is my understanding too.

21 DR. GARZA: I would hope for a speedy
22 conclusion.

1 DR. BROMLEY: It is a sense of the Committee
2 that we are going to then turn to access. Is that
3 right, George?

4 MR. LAPOINTE: Sure. Right.

5 DR. BROMLEY: Okay. Thank you. Tony. You
6 are okay? Steve. Steve Murray.

7 DR. MURRAY: Just a quick question. Where on
8 page 11? What number?

9 DR. BROMLEY: Page 11, line 24.

10 DR. MURRAY: Line 24.

11 DR. BROMLEY: I believe so. Tundi, is that
12 your idea, which is the discussion of nominating sites
13 before the bullets.

14 MR. LAPOINTE: Figuratively speaking about
15 bullets of course.

16 DR. BROMLEY: Bullets. Yes. Okay. Rod.

17 DR. FUJITA: Thank you, Mr. Chairman. I
18 object to the first part of the amendment. I don't
19 think access to resources within marine protected areas
20 is a primary objective of the National system of MPA's.

21 I think access to sustainable resources, both
22 biological and cultural resources, is certainly a

1 primary objective of national, overarching marine
2 management policy, but access has two components at
3 least, right? One is right of entry to areas and
4 another is to have enough fish around to access.

5 I think by what is meant by having sustainable
6 use as sort of one of the benefits of MPA's doesn't
7 imply that we will go creating an MPA so that we can
8 build up resources so that we can access those
9 resources. It is premised on the idea that, you know,
10 access, on a continuing basis to marine resources, is
11 going to depend on protecting some of those resources
12 in some places at some times. So I really -- I can't
13 accept putting access language like that in the list of
14 primary objectives of this National MPA system.

15 DR. BROMLEY: Bob Zales. Did you want to get
16 on the list, George?

17 MR. LAPOINTE: No, I think not.

18 DR. BROMLEY: Okay. Bob Zales.

19 MR. ZALES: Yes. I can support this motion,
20 but I would like to see if George and his second
21 would -- because I had a little bit of a problem with
22 this before we got into anything with number 4 because

1 it doesn't list anything about recreational fisheries or
2 recreational fishermen. It says, "Individuals,
3 commercial enterprises, communities and the Nation."

4 Now granted a recreational fisherman could be
5 considered part of some of those groups, but it is not
6 specifically pointed out and it also doesn't refer to
7 divers or any of those people. So, you know, I would
8 like to have some kind of language maybe behind
9 commercial. Put "commercial and recreational
10 enterprises," which would probably include, in my mind
11 anyway, fishermen, divers, sightseers, whatever.

12 DR. BROMLEY: Okay. Next, Terry.

13 MR. LAPOINTE: Are you making that as a --

14 MR. ZALES: Yes. I am asking if that could be
15 like a friendly amendment and also to that point, I
16 believe this is more of a substitute motion than it is
17 an amendment to the motion. I think the whole thing
18 has been effectively changed. So it is a substitute
19 motion.

20 MR. LAPOINTE: I offered it as a substitute.

21 MR. ZALES: It is a substitute?

22 MR. LAPOINTE: Okay.

1 MR. ZALES: Okay. And but you would be
2 willing to consider to add language in there for
3 recreational participants?

4 MR. LAPOINTE: Conceptually I don't, but
5 procedurally I do mind because I think it will raise a
6 whole other host of issues. If I look at recreational
7 fishing, as I understand it, if I am fishing by myself,
8 I am an individual, and if I am fishing for hire, I am
9 a commercial interest in the recreational sector. So I
10 think it is covered.

11 DR. BROMLEY: Okay. Let's -- Terry.

12 MR. O'HALLORAN: Thank you.

13 DR. BROMLEY: Bob, it doesn't mean you can't
14 come back. Okay. I mean, I just --

15 MR. ZALES: Oh, I understand.

16 DR. BROMLEY: Yes.

17 MR. O'HALLORAN: I support the substitute
18 amendment and in the interest of -- we are all almost
19 to 2:30 and we have an awful lot of things to discuss
20 and I don't know what the procedure is here, but I would
21 like to call the question if that is possible.

22 DR. BROMLEY: Well, we have two or three more

1 people on the list and we can short-circuit it, but I
2 would certainly like to let -- I appreciate it, Terry.

3 Thank you. I would rather have somebody out there
4 pushing us forward than me all the time, but I do feel
5 that I -- I am not forced to stop the debate, am I? Am
6 I required to stop?

7 MR. PETERSON: No.

8 DR. BROMLEY: I am not required.

9 MR. PETERSON: No. That is a non-debatable
10 motion, but it is actually a motion to limit debate,
11 which requires a two-thirds majority to cut off debate.

12 DR. BROMLEY: Okay.

13 MR. PETERSON: But it goes to immediate vote.

14

15 DR. BROMLEY: Yes. I would like to hear from
16 Jim Ray and John Halsey and Wally if I may. We have to
17 go to vote?

18 MR. PETERSON: You have to go to vote.

19 (Laughter.)

20 DR. BROMLEY: All right. We are voting on
21 cutting off debate. Am I correct?

22 DR. GARZA: Right.

1 DR. BROMLEY: Keep going? Were they pulling
2 my leg.

3 DR. GARZA: The purpose of a call for question
4 is to see if anybody else has any other questions in
5 regard to the motion before they are prepared to vote.

6 DR. BROMLEY: That is my understanding.

7 DR. GARZA: If someone still has a question,
8 then they have the -- they should have the opportunity
9 to either make their position known or ask for
10 questions so that they can make a position.

11 MR. PETERSON: I am sorry to disagree with my
12 good friend the parliamentarian, but a motion -- a call
13 for the question is a call to limit debate, which
14 requires a vote and it requires a two-thirds majority
15 because you are cutting off debate if they vote to do
16 that. You cannot allow any discussion or any other
17 things. Now since we are a participatory group, maybe
18 we won't agree to that so these people can be heard.
19 But just to call for the question does not limit
20 debate.

21 DR. BROMLEY: Dolly here is our official
22 parliamentarian. Dolly, what shall I do?

1 DR. GARZA: Well, the easiest would be was
2 there was no second on that. And if the intent is for
3 full participation, as we are hoping for with the MPA,
4 then we would allow those people that are still on the
5 list who wish to state a position to state it.

6 MR. O'HALLORAN: Mr. Chair, hearing this, I
7 will withdraw that provided that we can move along.

8 DR. BROMLEY: Yes.

9 MR. O'HALLORAN: Because we have had a lot of
10 debate.

11 DR. BROMLEY: Yes.

12 MR. O'HALLORAN: We have got a lot more things
13 to debate.

14 DR. BROMLEY: Terry, I have an idea. In the
15 future, you know, why don't you just say, "When can we
16 move the hell along rather than" --

17 (Laughter.)

18 MR. O'HALLORAN: I thought that is what I
19 said.

20 DR. BROMLEY: Okay. But be careful of what we
21 call things, Terry.

22 Jim Ray.

1 DR. RAY: I just wanted to make a quick point.
2 When it comes to access, we are not just talking about
3 the removal of fishery resources, et cetera. It is
4 mineral resources. Access being a lot of things and it
5 could cause a question of just being sure that you have
6 a definition that is inclusive with access.

7 DR. BROMLEY: That is right. And this is the
8 deficiency that I find in the language here that is the
9 last sentence doesn't talk about uses. Okay. John
10 Halsey.

11 DR. HALSEY: Okay. Certainly we have gone
12 past the point of trying to ride this in under cultural
13 resources. Certainly something, though, that we --
14 that does keep getting lost is that we are dealing, in
15 the case, particularly of historic, cultural resources,
16 that they are non-renewable, they are non-replaceable.

17 You can't build a new environment in which to sink an
18 1880 schooner.

19 So we have got what we have got and this
20 language that is already in under number 5 essentially
21 reflects what Michigan did when they created marine
22 protected areas directed specifically at cultural

1 resources. In other words, shipwrecks. It was
2 intended, in that case, to allow access to these things
3 in a non-consumptive way so that people could go down,
4 experience the mystery of the wrecks, take pictures,
5 draw them, whatever they wanted to do, without
6 adversely affecting them.

7 So that was what we have lived with for many
8 years as the embodiment of sustainable use. Leave
9 these things alone and they can last indefinitely. And
10 I think that that is something we need to consider when
11 we think about sustainable use or particularly with
12 non-renewable resources.

13 DR. BROMLEY: Very good.

14 Wally.

15 DR. PEREYRA: Yes, Mr. Chairman. I am pleased
16 that number 4 on page 3 is there because that was
17 lifted from my comments that I made back on the 13th of
18 April because number 5 was the old number 4. And the
19 reason that I provided this particular item was that
20 when I read number presently number 5, it spoke to
21 cultural resources having access, but there is no
22 mention at all of recreational or commercial or other

1 marine uses. So that is why that was put there. So
2 the sustainable use, when I wrote this, this really
3 meant to cover all the other extractive uses, including
4 recreational.

5 DR. BROMLEY: Very good. Thank you.

6 Bonnie and then we are going to move the hell
7 on or try to.

8 DR. MCCAY: Just one point, Mr. Chairman, you
9 mentioned the concern about access not perhaps being
10 inclusive and not because use is another issue. And I,
11 too, have been thinking about definitional issues and I
12 have been on the web while we were speaking and looked
13 at various definitions and so forth and use is
14 incorporated into almost all the definitions.

15 For example, the right and ability to enter,
16 the right and ability to obtain or make use of or take
17 advantage of something. And that is a fairly typical
18 definition. So whereas you may want to add use from
19 time to time, I think that in our definition, whatever
20 we choose, we can reflect these common English uses of
21 the term.

22 DR. BROMLEY: Thank you. Okay. We have,

1 therefore, a compound motion, George.

2 MR. LAPOINTE: A compound substitute motion.

3 DR. BROMLEY: A compound substitute motion.

4 MR. LAPOINTE: Mr. Chairman, yes.

5 DR. BROMLEY: George, could you refresh our
6 memory exactly what we have been discussing for the
7 last 30 minutes because we are going to have a vote and
8 I want everyone to be clear on what we are voting on.

9 MR. LAPOINTE: The motion we are voting on is
10 to add, on page 3, line 33 -- unfortunately, I have go
11 for bifocals now.

12 DR. BROMLEY: Yes.

13 MR. LAPOINTE: "Providing appropriate access
14 to and." So the inclusion of those words on page 3.
15 And then on page 11, the inclusion of the language that
16 was ably brought to us by our subcommittee on the page
17 that is titled, "Proposed language on access."

18 DR. BROMLEY: Yes.

19 MR. LAPOINTE: Those are the three parts of
20 that substitute motion.

21 DR. BROMLEY: Okay. Is everyone clear? All
22 right. Are you ready to vote on the substitute motion?

1 PARTICIPANT: Yes.

2 DR. BROMLEY: All in favor say aye.

3 (Chorus of ayes.)

4 DR. BROMLEY: Opposed?

5 (Chorus of noes.)

6 DR. BROMLEY: Okay. The ayes have it. Okay.

7 So we have adopted this. Do we need a subcommittee --

8 DR. GARZA: Do we need a break?

9 DR. BROMLEY: Do we need a break? I don't
10 know. It is 3:30. It is only 2:30. No. We don't need
11 a break. Yes, Bob?

12 MR. ZALES: I am going to try one more time.
13 It may not go anywhere, but I am going to make the
14 motion to add, to number 4 on page 3, recreational in
15 there somewhere because as Wally has stated, that was
16 kind of his intent. George could agree in one way and
17 not another. And I still, even though an individual
18 could be considered recreational, I would be a lot more
19 comfortable with it defined.

20 MR. BENTON: Where are you going to put it?

21 MR. ZALES: You could either -- I would just
22 make it real simple and put after commercial, "and

1 recreational enterprises" because I consider them one
2 and the same.

3 MR. BENTON: Second.

4 MR. ZALES: So I have a second now so now we
5 can debate it. And if you would like to hear more, it
6 is just basically I have had real problems with
7 language before being interpreted by people in the
8 future and somewhere in the future, I see that
9 something could be lost and I don't know that it will.

10 I think you could reasonably argue, especially
11 if you looked at the record that we have, that
12 recreational was intended to be within number 4, but if
13 it is specifically there written out, it is easier to
14 do and you don't have to look up the record.

15 DR. BROMLEY: I am sorry. Let me make sure I
16 understand this. You want recreational enterprises
17 entered in here?

18 MR. PETERSON: Commercial and recreational.

19 DR. BROMLEY: Commercial and recreational
20 enterprises. Is that what you would like, Bob, is that
21 your motion?

22 MR. ZALES: That is what I would like because

1 it is -- I have probably changed over the years a
2 little bit, but maybe not.

3 DR. BROMLEY: Just yes or no right now.

4 MR. ZALES: Recreation because fishing is, by
5 a lot of people, considered a sport. I look at it more
6 as a pretty important business to this country.

7 DR. BROMLEY: So if I go fishing --

8 MR. ZALES: An enterprise kind of encompasses
9 that. It doesn't specifically reference a business, it
10 doesn't reference a sport and recreational to me would
11 encompass not only fishermen, but divers, sightseers.

12 DR. BROMLEY: Okay. I am not arguing for or
13 against. I want to make sure I understand. You are
14 saying that if I go fishing or diving, I am a
15 recreational enterprise?

16 MR. ZALES: You could be.

17 DR. BROMLEY: You could be.

18 DR. GARZA: But you could be an individual.

19 DR. BROMLEY: I could be an individual.

20 MR. ZALES: You could be an individual.

21 DR. BROMLEY: What makes me an enterprise or
22 an individual?

1 MR. ZALES: But you could be an individual.
2 An individual could also have a commercial enterprise.
3 An individual doesn't necessarily --

4 DR. BROMLEY: My point is, Bob, the language
5 here is wrong. I am sorry. The language is wrong. I
6 am not opposed to -- you know, I am not speaking
7 against the motion. You just don't want to introduce --
8 I am sorry, I don't think you want to introduce
9 recreational enterprise for me going out and diving.
10 Am I allowed to say that? Only for coherence reasons,
11 okay? I have Wally, Bonnie and Dave Benton. Wally.

12 DR. PEREYRA: Yes. With regards to the
13 discussion on enterprise or whatever, I think the word
14 "individual" would cover individuals that are going
15 forward for recreational purposes. So that fits -- it
16 is sort of implicit in there.

17 DR. BROMLEY: Yes.

18 DR. PEREYRA: But the enterprise part of it I
19 think is up to a higher order. Is that what you were
20 getting at?

21 MR. ZALES: No. I just want to be sure that
22 recreational individuals are included in there and in

1 my mind, individual -- I mean, I could argue, I think
2 reasonably, an individual would also -- would basically
3 include everything in there other than communities and
4 the nation because an individual could be a commercial
5 enterprise. So I am just trying to be certain that
6 recreational individuals or recreational whatever are
7 covered.

8 DR. PEREYRA: Okay. I am with you.

9 DR. BROMLEY: I think procedurally, is this a
10 motion before us, Bob?

11 MR. ZALES: Yes.

12 DR. BROMLEY: Has it been moved and seconded

13 MR. ZALES: Yes.

14 DR. BROMLEY: All right. So we are debating
15 the language -- okay. Bonnie.

16 DR. MCCAY: I think the unfortunate
17 consequence of that otherwise good suggestion, Bob, is
18 that it makes it sound like just fishing and there are
19 other kinds of things at stake here and I would suggest
20 simply getting rid of commercial so that you have
21 individuals, enterprises, communities and the nation.
22 And that leaves it appropriately more open for the

1 variety of users.

2 DR. RAY: Bonnie, explain why you think it
3 means fishing?

4 DR. MCCAY: Commercial and recreational. I
5 mean, do we have recreational oil and gas? No, we
6 don't. I mean, when you use those terms, it just
7 implies that you are talking about fishing and diving.

8

9 DR. RAY: No. No.

10 DR. MCCAY: Whereas there are other kinds of
11 interests involved in this. I guess my more general
12 point is that you don't the term "commercial" because
13 you already have them implied by enterprise and that
14 opens it up and you don't have to specify recreational,
15 you don't have to specify commercial and you are still
16 saying the same thing at the proper level of language
17 for general objectives like this.

18 DR. BROMLEY: Okay. On the list, we have Dave
19 Benton, Jim Ray, Max and Barbara.

20 MR. BENTON: Mr. Chairman.

21 DR. BROMLEY: Yes.

22 MR. BENTON: So listening to you and to

1 Bonnie, although if I remember correctly, because I
2 seconded the motion, I can't propose a friendly
3 amendment to the motion.

4 DR. BROMLEY: You could lose your nerve on
5 your second.

6 MR. BENTON: Well, no, there is another reason
7 to do that, but, you know, just listening to your
8 comment, it might be more appropriate to say "benefit
9 of individuals, recreational users, commercial
10 enterprises" and go on the language. That might be a
11 better deal, but I can't necessarily make that as a --

12 MR. ZALES: I would accept that as a friendly
13 amendment if you would.

14 MR. BENTON: Well, if somebody would make
15 that.

16 MR. O'HALLORAN: If it is appropriate, then,
17 I -- the language that Dave talked about about
18 recreational uses --

19 MR. BENTON: Users?

20 MR. O'HALLORAN: Users. Because, you know, I
21 think what Bob is saying, I mean, I think it has some
22 merit because we are singling out commercial and to

1 have the recreational component in there that even
2 though I particularly think individuals kinds of covers
3 it, but if it clarifies it a little bit better, I mean,
4 I could support that. So anyway, I make that --

5 MR. BENTON: As a friendly?

6 MR. O'HALLORAN: It is a friendly.

7 MR. ZALES: I can take it.

8 DR. BROMLEY: I think we have a friendly that
9 says -- denoting for the benefit of individuals,
10 recreational users --

11 MR. BENTON: Comma.

12 DR. BROMLEY: Comma, commercial enterprises
13 and so on. Right?

14 MR. BENTON: Correct.

15 MR. BENDICK: Bob, is that okay with you.

16 MR. ZALES: Then I accepted it and Dave, as
17 the second, accepted it to.

18 DR. BROMLEY: So we have, okay, Jim Ray.

19 DR. RAY: I think I can go along with the
20 friendly amendment. I was just trying to keep it
21 simple, you know. If it is for money, it is
22 commercial; if it is not, you know, it is the

1 individuals at a recreational level, but the new
2 amendment, that could work.

3 DR. BROMLEY: Okay. Max.

4 MR. PETERSON: I think that is okay. I had
5 another idea, but I will just defer to that. I think
6 it does it.

7 DR. BROMLEY: Okay. Barbara Stevenson.

8 MS. STEVENSON: I think I am so confused I am
9 just going to vote against it. I am not quite sure
10 what -- before the friendly, I had some -- because
11 commercial covers everything from oil and gas to Terry
12 and I and it covered a broad range of things and so
13 that was fine. That is saying all of these enterprises
14 and there is some vague implication that I don't care
15 what your wording, if you put recreational in there,
16 then commercial implies commercial fishing and there
17 are all these other commercial uses. So I am more
18 unhappy with the new wording, but I am not going to
19 propose some other change other than voting against it.

20 MR. O'HALLORAN: Mr. Chairman, what if
21 substituted the word "individual" and made that
22 "recreational."

1 DR. BROMLEY: Who is talking? Terry. Oh.
2 Sorry. What, Terry?

3 MR. O'HALLORAN: Okay. All right. I was just
4 thinking about taking out "individuals" and make it,
5 "recreational, commercial, communities and the nation."

6 DR. BROMLEY: Okay. Michael.

7 DR. CRUICKSHANK: I wanted to support that
8 particular change there because this morning when I
9 read over both the access definition in your letter and
10 the proposed language in access, then after listening
11 to the speakers this morning, I mean, this is
12 sportfishing or recreational fishing or whatever, it is
13 a big industry and effort and this falls into place. I
14 think it is a very good place in this word
15 "recreational" in that area.

16 DR. BROMLEY: Okay. Tony.

17 DR. CHATWIN: Thank you, Mr. Chairman. I do
18 not support the motion and --

19 DR. BROMLEY: The friendly amendment motion.
20 Okay.

21 DR. CHATWIN: Yes. Because, you know, I think
22 Bonnie is right. This is a slipper slope. Soon every

1 interest around the table will want to be specifically
2 referred just to ensure some -- in this case, we are
3 trying to be precautionary against some unforeseen
4 consequences of not including a specific mention. And
5 I would say that conservation interests here are not
6 explicitly stated and so that is as much as
7 recreational. So I oppose a friendly. I think if it
8 goes through, I would want to see conversation
9 specifically stated in there too.

10 DR. BROMLEY: Okay. All right. Bonnie and
11 then Dolly.

12 DR. MCCAY: Well, for the reasons I gave
13 before, I too oppose the friendly as it currently is
14 and if -- you know, because it -- we would continue
15 splitting and if we say recreational user, I would
16 offer that we would have to say recreational and
17 subsistence user and I am sure others would come up
18 with some others that are very, very important. So I
19 am a little worried, again, of going -- of how this is
20 proliferating.

21 DR. BROMLEY: Okay. Dolly.

22 DR. GARZA: Thank you, Mr. Chairman, and I

1 would also agree with Bonnie. I think that I
2 wouldn't -- I don't think I would feel like I had to
3 throw subsistence in there because I think it fits
4 under individual, but I think if we left it as
5 enterprise, then it does make it broad and inclusive.
6 So I think if we just took out commercial, that it
7 would go -- either you are an individual or you are
8 making money off of it. And that includes, I think,
9 everybody.

10 DR. BROMLEY: I have Eric and I have George.
11 If I may make an editorial point, would we help
12 ourselves if we got rid of all these individuals and
13 just talked about the benefit of the nation?

14 DR. RAY: No.

15 DR. BROMLEY: No. Okay. Eric. I guess I
16 know when I am whipped. I am no fool.

17 MR. GILMAN: I guess my suggestion is to
18 delete everything after the word "resources." Why
19 identify the specific groups.

20 DR. BROMLEY: So you are offering a little
21 different version of surgery, which is promoting
22 whatever sustainable use of marine resources period.

1 Is that it, Eric?

2 MR. GILMAN: Yes.

3 DR. BROMLEY: Okay. That is just an idea at
4 this stage, not a motion. Okay. And then Dave Benton.
5 Oh, George? Okay. And then Dave Benton and then Rod.

6 MR. LAPOINTE: I am done.

7 DR. BROMLEY: George passes. Dave.

8 MR. BENTON: I came in there a bit on the
9 subsistence discussion. I sort of thought that was
10 covered under item number 5.

11 DR. GARZA: Yes, don't worry about it.

12 MR. BENTON: Okay.

13 (Laughter.)

14 MR. BENTON: If you are happy, I am happy.

15 DR. BROMLEY: Dolly is happy. We have Rod and
16 Tundi and then we are going to put a cap on this bottle
17 and sell it.

18 DR. FUJITA: Right. I oppose the friendly
19 amendment for the reasons I articulated before. But I
20 have a question. I need some clarity on this. By
21 having this as an objective to promote the
22 ecologically -- to provide -- what is it? "To provide

1 appropriate access to and promote the ecologically and
2 economically" -- are we talking about promoting the use
3 of resources within marine protected areas or are we
4 talking about promoting sustainable use of resources
5 within the EEZ as enhanced by the use of MPA's? I think
6 it is a fundamental question that we are confused
7 about.

8 DR. BROMLEY: Okay. Very good. Tundi and
9 then we are going to have a vote.

10 DR. AGARDY: I am not confused. I think our
11 intent was always to talk about how the national system
12 was going to get at -- get us towards our shared
13 objectives of promoting the sustainable use and the
14 conservation of our marine resources.

15 And I just wanted to say that I disagree with
16 Eric because I think that the intent of -- the fact --
17 the second half of this section, number 4, was meant to
18 capture that bigger picture that we are interested not
19 only in sustainably using for the benefit of the local
20 site or the benefit of the local communities, but also
21 sustainably using for the benefit of the nation. So I
22 think it ought to be in there. And I agree to knock

1 out commercial and just have enterprise because it is
2 redundant.

3 DR. BROMLEY: All right. I think I would like
4 to have a vote on this friendly, okay. And the
5 friendly is the -- is that right?

6 DR. GARZA: Call the question.

7 DR. BROMLEY: Pardon me? Yes, we are going to
8 vote -- and the think we are voting on is the five
9 words to be inserted before --

10 DR. GARZA: No, we did that already.

11 DR. BROMLEY: We already did that.

12 DR. GARZA: Recreational users.

13 DR. BROMLEY: Oh, yes, recreational users.
14 Yes. Yes. I got so tapped into the other one, I
15 wanted to vote on it twice. Okay.

16 MR. BENTON: Could we restate the motion,
17 Mr. Chair?

18 DR. BROMLEY: Yes. The motion -- who made it?

19 MR. ZALES: I did.

20 DR. BROMLEY: Bob did.

21 MR. ZALES: It is simply in between -- after
22 the comma of individuals, it adds recreational users,

1 comma, then commercial. Those two words and one comma.

2 Recreational users and a comma.

3 DR. BROMLEY: Recreational users, comma, goes
4 in before the word "commercial."

5 MR. ZALES: Correct.

6 DR. BROMLEY: In point 4. Are you ready for
7 the question?

8 PARTICIPANT: Yes.

9 DR. BROMLEY: All in favor say aye.

10 (Chorus of ayes.)

11 DR. BROMLEY: Opposed?

12 (Chorus of noes.)

13 DR. BROMLEY: I would declare the ayes have
14 it, but I will count hands if you would like.

15 MS. STEVENSON: So that adds recreational --

16 DR. BROMLEY: That adds recreational users
17 after individuals. It will now read individuals,
18 comma, recreational users, comma, commercial -- okay.
19 Where are you.

20 DR. AGARDY: Can you count because I wasn't
21 paying attention when you voted.

22 DR. BROMLEY: You would like a show of hands?

1 DR. AGARDY: Yes.

2 DR. BROMLEY: Okay. Fine. All in favor of
3 the motion say aye.

4 PARTICIPANT: Raise your hand.

5 MS. WENZEL: 11. I have got 11. Okay.

6 DR. BROMLEY: Opposed.

7 MS. WENZEL: Opposed. 11. Wait. Let's do
8 this again.

9 DR. BROMLEY: Put your hands up high. All in
10 favor, put them high.

11 MS. WENZEL: 11.

12 DR. BROMLEY: 11 in favor. Opposed.

13 MS. WENZEL: 11.

14 DR. FUJITA: It was just a loud majority.

15 DR. BROMLEY: How about I hide under the
16 table.

17 DR. GARZA: Tie votes fail.

18 PARTICIPANT: Tie votes fail.

19 MR. BENTON: Did the chair vote?

20 DR. BROMLEY: The chair did not vote.

21 MR. PETERSON: It is the Chairman's
22 prerogative. The Chairman can vote or the Chairman

1 cannot vote whichever he pleases.

2 DR. BROMLEY: The chairman has decided not to
3 vote.

4 DR. HALSEY: Vice President Cheney wouldn't do
5 that.

6 (Laughter.)

7 DR. BROMLEY: That is precisely the reason why
8 I refuse to. I need no other reason than that one.
9 Barbara.

10 MS. STEVENSON: Gil and I have agreed on a
11 definition of access, which I am sure wouldn't pass
12 given that we agree, but I thought I might just float
13 it in hopes that it would fly through.

14 DR. BROMLEY: Okay. Go ahead. Is everybody
15 clear where we are? We did not change the language.
16 The motion failed. Okay. Barbara, that is fine
17 because I was going to say maybe we need to deputize
18 some people to go away and define access, but you think
19 you have got it.

20 MS. STEVENSON: We may, but if it floats,
21 fine. If it doesn't --

22 DR. BROMLEY: All right. Let's hear it.

1 MS. STEVENSON: I don't want to sit here and
2 debate it for a couple of hours. Access includes both
3 physical ingress to and egress from an MPA area as well
4 as an extraction of resources appropriate to that
5 enterprise and to the goals and objectives of the MPA.

6 DR. BROMLEY: I can't accept it. I am sorry.
7 You have got extraction, which is -- you know what
8 John just said. I mean, we have resources that are not
9 extracted.

10 MS. STEVENSON: That is right. That is why it
11 says to the goals and objectives of the MPA.

12 DR. HALSEY: But there could be an MPA that
13 was directly focused on the preserving in place.

14 MS. STEVENSON: Right.

15 DR. GARZA: If we could just take a break and
16 have Lauren put this up on PowerPoint so we can see it.

17 DR. BROMLEY: All right.

18 DR. MCCAY: In addition to that, the other
19 definitions that are in the dictionary that might be
20 useful.

21 DR. PEREYRA: I have got one.

22 DR. BROMLEY: Wally has one. Okay. We will

1 have a -- David.

2 MR. BENTON: Mr. Chairman.

3 DR. BROMLEY: We have a call for a break, but
4 go ahead.

5 MR. BENTON: Well, on our break, I would --
6 given that we heard that we have three or four
7 different versions, it is, of course, the prerogative
8 of the Chair to appoint a working committee.

9 DR. BROMLEY: Yes.

10 MR. BENTON: I would just call your attention
11 to that and whether or not that might be a good idea, I
12 mean, to you.

13 DR. BROMLEY: All right. The working
14 committee shall consist of all of those who have their
15 favorite definition of access come up here and give it
16 to Lauren.

17 MR. BENTON: Work it out.

18 DR. BROMLEY: And work it out.

19 MR. BENTON: Over the break.

20 DR. BROMLEY: Over the break. You have got 10
21 minutes. We are recessed.

22 (A brief recess was taken.)

1 DR. BROMLEY: We are reconvening. It is a
2 quarter past 3:00. We have a public comment period at
3 3:45. It is my understanding, from visiting with Dana,
4 that we have five people signed up. It may go up to
5 six, I am not sure, but that is a manageable number.

6 We had, over the break, a number of people
7 come forward with ideas about access. There are a few
8 people in our group that have thoughts about access who
9 I suppose having registered them up on the screen. The
10 deal is that we are going to deputize -- I am going to
11 deputize anybody who has any thoughts about access to
12 work under the leadership of Bonnie McCay to bring us,
13 by 8:05 in the morning, four sentences addressing the
14 issue of use and access. You may have five, but short.

15 MR. NUSSMAN: Why not one?

16 DR. BROMLEY: Why not one. Two sentences.
17 But please, you know the point is succinct. What do we
18 mean by access? What do we mean by use? And I presume
19 what we want is language that could go in the glossary.
20 Is that the sense of the group? A definition. Okay.
21 All right. Thank you.

22 MR. LAPOINTE: Who is on that group?

1 DR. BROMLEY: Pardon?

2 MR. LAPOINTE: Who is on that group?

3 DR. BROMLEY: Who is on that group? Anyone
4 who wishes to show up. Bonnie is going to chair it.
5 So -- let's do it this way. At 5:00 when we break,
6 those who wish to be part of this access subcommittee,
7 come up here to Bonnie.

8 PARTICIPANT: Open access.

9 DR. BROMLEY: All. Okay. And the agreement,
10 by coming forward, is that you agree this evening,
11 after our group dinner, to work on it and maybe have
12 breakfast and be ready to put up on the screen at 8:05
13 in the morning some language. Okay? All right.

14 Well, this took a little longer than I
15 thought, but it is a big deal. So that is okay. We
16 need to spend our time on good things and that is
17 important. I would like to now go around the room and
18 I would like to give each person -- I am going to start
19 with John over here on my left and go around -- two or
20 three minutes at most. I will cut you off if you go
21 beyond that. I want to know what you think about the
22 draft. John.

1 DR. HALSEY: Okay. Well, cultural resources,
2 both ethnographic and historic, have not gotten as
3 extended a treatment as fisheries, but I assure you
4 that their supporters and users are every bit as
5 impassioned as the other protectors, other interest
6 groups that we have heard from.

7 I hope that in future meetings, we will have
8 opportunities to have presentations demonstrating their
9 unique and non-renewable values and their contributions
10 to local economies. Given the scope of the charge of
11 the committee, I believe that the hard or historical
12 cultural resources have been considered and are
13 included and based on my experience with existing
14 shipwreck MPA's, I can support the current draft.

15 DR. BROMLEY: Thank you. But you do have an
16 idea, an issue that you would like us to devote more
17 time to --

18 DR. HALSEY: Yes.

19 DR. BROMLEY: -- in the next life.

20 DR. HALSEY: In the next life.

21 DR. BROMLEY: Okay. Thank you. That is
22 wonderful, John.

1 John Ogden.

2 DR. OGDEN: Well, let me say at the outset
3 that I came into this process not really prepared for
4 the kinds of progress that we made and I think we ought
5 to congratulate ourselves on essentially coming from a
6 variety of viewpoints in what I consider personally to
7 be quite a remarkable document through a transparent
8 and open process.

9 We are, essentially, as I like to call it, the
10 only act in town after the COP report, which helped us
11 to define, as a nation, a huge, long list of real and
12 significant problems that we face in interacting our
13 society with our oceans and this issue of MPA's is going
14 to be essentially the gatekeeper for what I personally
15 hope will be a national effort to implement
16 ecosystem-based management in the coastal ocean of the
17 United States.

18 I have -- if I had, and it is really covered
19 in one of the four topics, but if I had to nitpick the
20 document just a little bit with regards to the things
21 that I would have liked to have seen in there is, I am
22 concerned about the -- while understanding and

1 certainly supporting the stakeholder involvement in the
2 regional way that we have done and the complete
3 transparency that we have gone through, and I have been
4 through that before in my comments, is incentives to
5 establish MPA's within the regions and which would
6 devolve to legislative authority, question mark, and
7 especially funding.

8 And I know you have covered those in the four
9 aside issues, but -- and how we deal with them as a
10 group, I guess, is something that is yet to be
11 determined, but those are my comments.

12 DR. BROMLEY: Thank you. This, too, could be
13 an issue for future work.

14 DR. OGDEN: Yes.

15 DR. BROMLEY: Incentives and funding. Thank
16 you.

17 Mike?

18 MR. NUSSMAN: Thank you, Mr. Chairman. First,
19 let me say that I am not prepared at this point to
20 endorse the document and my lack of endorsement doesn't
21 mean that I won't at the end of the day. It means that
22 right now I want to hear what everybody else has to say

1 and unfortunately I am number three on the list.

2 DR. BROMLEY: Yes.

3 MR. NUSSMAN: Specifically -- how do I say
4 this. This process is one that if it is successful, it
5 can be -- I think it can be very helpful because we are
6 asking ourselves to do -- to think hard about a number
7 of very difficult issues and access is clearly one of
8 those very difficult issues and it is one that perhaps
9 Congress or perhaps the Administration or some
10 regulatory body might be better placed to consider than
11 we, but we have got a variety of groups sitting around
12 here and the only way, you know, a document is going to
13 go forward that we all sign off on is if we all see
14 something in there that gives us some hope that we are
15 moving our position, our concern forward at the same
16 time understanding that there are broader goals we are
17 trying to accomplish.

18 So specifically, the issues that I am
19 interested in hearing more about, and will ask more
20 about it at an appropriate time, would be in your
21 May 2nd memo, the definition of harm. And as I recall,
22 and this goes back a long way to maybe the first or

1 second meeting, it was some -- the term "remanaged
2 areas" came about as a concern by the Administration or
3 by the secretary office that harm was an issue and my
4 question will be, as we go forward with this report,
5 how are we affecting the issue of harm and what are we
6 saying as a committee. So I -- that is one of the
7 questions I will ask Joe or I will ask someone here.

8 With regard to your May 2nd memo, the proposal
9 to exclude energy and mineral resources, I might add
10 that if we could add commercial fishing and
11 recreational fishing in there, we might be able to
12 complete this meeting today, but I would assume that
13 might not work.

14 Three, the authority is one that I had raised
15 along with others. With regard to the authority that
16 is included, one of my concerns is we are producing a
17 report and while I have raised the issue of authority I
18 think in every meeting, sometimes loudly, sometimes not
19 so loudly, I am -- I have concerns that my name is
20 attached to a document that is not well thought through
21 in talking about the existing authorities that we are
22 pushing forward on.

1 I am not at all convinced that we have the
2 authority to do all the things that are included in
3 here. I am not at all convinced that even if they
4 are -- if we could find some credible, broad definition
5 of existing authority -- say they are there -- that
6 there is any way it would be likely to happen. So I
7 guess I have some personal interest in not producing a
8 document that is irrelevant the moment it is produced.

9 So I am not necessarily happy with the way we have
10 dealt with existing authorities for that very reason.

11 And then of course the issue that I think
12 Wally raised, NEPA issues. You know, I think part of
13 the whole access we discussed, we just finished
14 discussing, is a journal on use about, as we go
15 forward, the recommendation we are making and sort of
16 the costs and benefits of looking at closed areas, how
17 they are evaluated and what this committee's
18 recommendation on those issues are.

19 So those are three specific issues that I want
20 to hear more about, that I have tried to read this
21 report with regard to those issues and think through
22 what it is saying and what it is not saying, but those

1 are ones I will look for more clarification and hope to
2 get over the next couple of days. Thanks.

3 DR. BROMLEY: Let me ask, Mike -- thank you.
4 That is a wonderful and concise statement. Let me ask
5 if -- because you may not be the only one to raise
6 these issues. Would it help us in the document not in
7 a minority report, but in the document itself, to say
8 that we are not sure we have had adequate time to
9 address these profound issues and the report that we
10 send forward is drafted in recognition of inadequate
11 time to address these things and that these should be
12 priority things for the future.

13 Would that make you feel any better -- I don't
14 mean to pin you down totally, but would that make you
15 feel better? Is there something we can do in the
16 document, short of opening up a long and detailed
17 discussion about authorities and harm and all those
18 things, in our closing section to address these?

19 MR. NUSSMAN: Mr. Chairman, I would certainly
20 agree that there would be way, short of solving every
21 problem on the universe, to go forward. Now exactly
22 what that language would look like and what sort of

1 profile it would give those issues, you know, I am not
2 certain right now and I, you know, would be listening
3 to others to hear what their thoughts are.

4 And I don't think, at least from my
5 perspective, we need to solve every problem. I mean,
6 there may be some problems we can't solve. I think
7 things like access, things like use, that is so
8 fundamental to the sort of the basis of what a
9 protected area is that we would be chicken if we didn't
10 do that.

11 DR. BROMLEY: That is right.

12 MR. NUSSMAN: And let me go back to an issue
13 that I didn't raise. You know, I am hopeful that we
14 don't end up with an 11 to 11 report coming out of here.

15

16 DR. BROMLEY: Yes.

17 MR. NUSSMAN: That would not serve any of us.

18 It essentially says we have not made the progress we
19 would like to make.

20 DR. BROMLEY: Yes.

21 MR. NUSSMAN: And so, you know, the real
22 charge is -- if we do that, what we have largely said,

1 we have spent two years and we are just as troubled,
2 confounded, whatever it is, as we were when we started.

3 We are so very, very divided and we weren't able to
4 pull it any closer together.

5 DR. BROMLEY: Well, that is why I asked
6 because one way to deal with division if it comes is to
7 have a minority statement of these concerns. Another
8 is to fold it into the document itself and say these
9 are issues that this committee has not had time to
10 address. We understand they are profoundly important
11 to the ultimate structure of MPA's in the United States
12 and we put those right in the report. And so what I am
13 looking for is whether or not there is language that we
14 might put in that last section of the report that
15 raises this. So that is all. Thank you, Michael.
16 Okay. Maybe you want to respond.

17 DR. MURRAY: No.

18 DR. BROMLEY: Yes. Tundi.

19 DR. AGARDY: I would like to reiterate what
20 John said about how far we have come and I also had low
21 expectations, I must say, for this committee and I have
22 been pleasantly surprised at not only the progresses

1 that we have made, but the extent to which people are
2 willing to look at things from other people's points of
3 view and listen. So I am very pleased.

4 I would like to endorse the current draft for
5 two reasons. For one, I think it avoids putting undue
6 emphasis on fish and other kinds of marine critters
7 that humans use and really thinks much more
8 comprehensively about what the oceans mean to us.

9 And because it avoids discussions of the pros
10 and cons of individual MPA's and how they should be
11 decided, but rather really focuses on the idea of a
12 national system and what the value added is of a
13 national system, including, of course, not only
14 promoting sustainable use, but also trying to conserve
15 biodiversity and safeguard livelihoods and recreational
16 opportunities.

17 And I think that one of -- and I don't have
18 any concerns that would prevent me from endorsing the
19 document or voting for it. I do have -- I have two
20 feelings about it that are kind of negative in the
21 sense that I think that we don't emphasize enough the
22 value added of a system versus the value of individual

1 MPA's in meeting all these goals.

2 So I wish that that came out more strongly.

3 And of course, one of the value added, in my opinion,
4 of the system is that it helps us kind of stay away
5 from a very myopic view of what is happening at the
6 site level and really think about the Nation's marine
7 heritage and what I think are our common goals in
8 trying to conserve the ocean environment.

9 The other kind of criticism that I have of the
10 report is, you know, I have to say, frankly, I really
11 miss the passion that we introduced in some of the
12 earlier drafts and my subcommittee members will laugh
13 because I brought up the issue of the passion in the
14 subcommittee, but more seriously, I don't think we make
15 a very strong statement of need or statement of purpose
16 for a National Marine Protected Area System.

17 And I think that is because many of us are
18 coming from the perspective in our particular place
19 where we live and work or in our particular arena,
20 things are going relatively well, but if you look at
21 the big picture, I think we would all agree that there
22 are many, many problems and not only having to do in

1 some cases with fisheries, but also, more importantly,
2 with the fact that we are losing biodiversity daily, we
3 are degrading and losing habitat. Our water quality is
4 declining and frankly the services, the goods and
5 services that human beings depend on in this nation, as
6 in other nations, are not being provided because we
7 have compromised these systems.

8 So I would like to see a stronger statement of
9 need in here. And I understand why it was removed and
10 as I say, I will endorse the report in whatever form it
11 takes because I think it represents a good effort for
12 all of us, but mainly, I would like to propose having
13 some kind of a preamble put back in that really states
14 why we think a national system is warranted.

15 DR. BROMLEY: Okay. Good. Thank you, Tundi.
16 Steve.

17 DR. MURRAY: Well, much of what I would like
18 to say has already been said. So I will try to be
19 brief. I think that we have done a really nice job of
20 codifying a lot of issues, incorporating the viewpoints
21 of multiple perspectives, and I think it has been a
22 learning experience for me and I really appreciate that

1 learning and some of the end results that we have seen.

2 I am comfortable with the report, essentially, as it
3 stands. I think that most of the major issues have
4 been dealt with from my perspective, although I know
5 that is not true around the table.

6 I would like to reiterate the point that Tundi
7 just made and that has to do with relying more on
8 documents that clearly outline the need for doing
9 different things with regard to the ocean and the way
10 we manage the oceans. I think we have underused the
11 U.S. Commission on Ocean Policy report with -- and its
12 findings. It calls for many different management
13 changes with regard to setting a stage or a template
14 for this effort.

15 I think I find it interesting, and I
16 encountered this in another effort that I am involved
17 with, that frequently folks who are engaged in
18 activities where the Ocean Commission report sort of
19 says, "Well, you need to do things a little
20 differently," they don't like to hear that so much. And
21 yet, you know, we have a major body that has gone
22 through a major effort, larger than our own here, and

1 there are a lot of important things that I think
2 clearly set the stage for doing things differently than
3 we have been doing them and I don't know that we have
4 made use enough of that particular report and its
5 findings.

6 And in that same context, I also would argue
7 that the call in that report and in other places for a
8 more ecosystem-based management scenario set of
9 approaches I think could also be more integrated into
10 this report because I think that the use of marine
11 protected areas, as tools for that purpose, has not
12 been laid out very well in this report and both of
13 those comments that are in line with the U.S. COP
14 findings. That is it.

15 DR. BROMLEY: Thank you, Steve.

16 Mark?

17 DR. HIXON: Thank you, Mr. Chairman. I am
18 teetering. If I was forced to vote at the present
19 moment, I would vote yes to endorse the document. At
20 the same time, there is a few things I believe that
21 must be addressed and will be addressed before we
22 leave.

1 I am glad we are going to explore the
2 relationship between access and use because talking
3 with members during the breaks, I am seeing a wide
4 range of interpretations and perspectives and I believe
5 that clarification is essential. If it is not made
6 clear by the end of this meeting, then I would suggest
7 that it go into a list, an explicit list of unresolved
8 issues.

9 I do totally endorse the idea of having a
10 section at the end that lists, very explicitly, what
11 the unresolved issues are as you have proposed. I
12 believe that is going to be an essential change to be
13 made in the draft.

14 Also, during the break, speaking with people,
15 it has become clear that our modifications of page 4,
16 line 33 -- no, page 3 -- wait a minute. Correction.
17 Line -- page 3, line 33, item number 4, those
18 modifications we just made have about as many
19 interpretations as there are people on the Committee
20 right now. I believe that needs to be clarified so
21 that we are all on the same page. So those are my
22 major points.

1 DR. BROMLEY: So you would like to go back and
2 fix what we just did.

3 DR. HIXON: Unfortunately, yes. Believe me, I
4 hate to say it. So the three main things are --

5 DR. BROMLEY: See why I didn't vote? Sorry.

6 DR. HIXON: Yes. Relationship between access
7 and use, going back to item 4 on page 3, line 33, and
8 then this explicit list of unresolved issues at the
9 end. Otherwise, I have minor comments regarding
10 wording and overall, the document is pretty boring to
11 read. Thank you.

12 DR. BROMLEY: Okay. Good. Max.

13 MR. PETERSON: Mr. Chairman, I am heartened by
14 the progress we made today. I am very hopeful that I
15 will be able to not only support by signing this
16 report, but also equally important, I think that
17 supporting it within the Administration and maybe in
18 congressional testimony. That may be more important
19 than whose name is on this document. So I am hopeful
20 that all of us will be in the position, by the time we
21 are through, to say we support this report. And that
22 is my objective.

1 I am still concerned about how this access
2 question works out. I am concerned, as Mike is, about
3 this 11 to 11 vote. I don't think that is a very good
4 way for us to leave that. I think we need to struggle
5 with that to see if we can't get more unanimity as to
6 where we are going.

7 And finally, we say, about five times in the
8 report, that we are going to do this under existing
9 authority. In fact, if you go to page 11, we say the
10 executive order provides a federal agency with the
11 direct authority to establish a national system while
12 the executive order itself says it doesn't provide any
13 new authority. So that is obviously not correct.

14 So I have written a proposal that I will have
15 typed up during the night and present tomorrow that
16 will simply say something like this, "The Committee is
17 unsure as to whether its recommendations can be
18 implemented under existing authority. We recommend
19 that the secretaries of commerce and interior have a
20 legal analysis completed to determine what additional
21 authority would be required or advisable to carry out
22 the Committee's recommendations."

1 Then we simply strike those places that we say
2 it is going to be done under existing authority. Now I
3 think that doesn't negate the document, it doesn't put
4 it off, and I think that allows the two departments,
5 then, to move ahead because if they decide that we don't
6 need legal authority, that is good enough for me, but I
7 think it is presumptuous for us to say that we have
8 legal authority, Mr. Chairman. So I will have that
9 typed up overnight if I can.

10 DR. BROMLEY: Thank you, Max. Okay.

11 Terry.

12 MR. O'HALLORAN: Terry or Larry?

13 DR. BROMLEY: Terry. We are going to get the
14 views of the ex officios later.

15 MR. O'HALLORAN: Okay.

16 DR. BROMLEY: We want that, but I was going to
17 go to the FAC and then come back to the ex officios.
18 Is that okay, Brian and Larry?

19 Terry.

20 MR. O'HALLORAN: Okay. Thank you,
21 Mr. Chairman. Well, first of all, this whole
22 experience for the last couple of years for me has been

1 a major learning experience. I have learned an awful
2 lot from everyone sitting around this table and
3 essentially, I endorse this document. I don't think it
4 is perfect and there are some things that were brought
5 up today, particularly, as others are saying, about
6 access and use, that I think we still need some
7 discussion on. And it is -- in some ways, it is kind
8 of surprising we haven't addressed this earlier on than
9 we are now, but it is a very important one and
10 certainly germane to what we are doing.

11 I guess one of the concerns I have, and it is
12 more of an implementation concern, rather than the
13 document itself, because I don't have -- I don't know
14 how it could be better, but that is of regional
15 coordination and incentives for non-federal
16 jurisdictions to actually buy into a national system,
17 which I think is critical to the overall success of a
18 national system. And maybe later on in another
19 iteration we can do a better -- we can, I guess, add
20 some more substance to that.

21 The only other comment I would have is that
22 those four substantive issues that you listed in the

1 memo, I would hope that those might be tabled for
2 another discussion. I look at those and they are
3 all -- in my view, they are all incredibly important,
4 large issues in which to deal with. And part of it --
5 I guess if we have opportunities in our next iteration
6 as another committee or continuation of this committee
7 that we address those.

8 But I certainly would have a concern that we
9 get into those during these three days that any one of
10 those issues could bog this process down to the point
11 where we might not be able to find consensus on what I
12 feel like has been a very good job by everyone, finding
13 compromise and finding something that we can live with.

14 And I certainly wouldn't want to hope that the
15 two years we have put into it at this point are -- will
16 end up with a fruitful document without a minority
17 report in a way that we can agree on it so that we can
18 feel like our time was certainly well spent. Thank
19 you.

20 DR. BROMLEY: Thank you very much. It is
21 almost a quarter to 4:00. Kay, would you mind if we
22 suspend. That will give you a chance to collect your

1 thoughts a little more because we do have the public
2 comment period scheduled for 3:45 and I don't want to
3 make them wait.

4 MS. WILLIAMS: I don't mind waiting.

5 DR. BROMLEY: Pardon me?

6 MS. WILLIAMS: I don't mind waiting.

7 DR. BROMLEY: You don't want to wait?

8 MS. WILLIAMS: I will wait.

9 DR. BROMLEY: You will wait. I am sorry. You
10 are happy to wait. Do a second draft, Kay.

11 Okay. So we are going to suspend the rotation
12 here for the public comment period, which is supposed
13 to start at 3:45 and that is about what time it is.
14 According to Dana, we have five individuals who have
15 asked to appear before us.

16 You will have five minutes. I have a Pyrex
17 timer here to keep you honest. And so Lauren, Joe, may
18 we proceed with the public comment period? Is that
19 what we need to do. Okay. The first speaker is Jud
20 Crawford. We would like you to state your name and why
21 you are here or who you represent.

22 DR. CRAWFORD: My name is Jud Crawford. I am

1 a scientist, a biologist, with the Conservation Law
2 Foundation in Boston. The Conservation Law Foundation
3 is an environmental advocacy organization. We have
4 worked on a variety of marine issues in the Gulf of
5 Maine region for the past three decades, including the
6 coastal issues, pollution sources, oil and gas
7 exploration, the offshore fisheries management and the
8 development of marine protected areas and other
9 mechanisms for conservation of ecosystems and
10 biodiversity.

11 I want to begin by thanking all of you for
12 your hard work on this what we think is a very, very
13 important task and commend you for the draft document
14 that you have produced so far. I think it is -- you
15 have done a wonderful job and you have covered a lot of
16 important things, including public process, ranging
17 from different types of MPA's and their functions and
18 things ranging from fisheries management to ecosystem
19 and biodiversity conservation.

20 There has been a lot of discussion today about
21 access and types of MPA's and goals for MPA's. There
22 has been a lot of focus on access for fishing. The

1 document that you produced, though, does an excellent
2 job of making it clear that there are a variety of
3 goals and focusing on -- or recommending that we need
4 to keep our eye on what the goals are when we think
5 about how to set up MPA's and in particular, the
6 national system, which has a variety of objectives,
7 including things that happen in those protected areas
8 and also things that are a consequence of a well
9 designed network of MPA's, including sustaining
10 ecosystems that produce the commercial and recreational
11 products that we use.

12 I think I want to just urge you, partly
13 because of the bias towards fishing that I have heard
14 today, to hold onto the importance of some of those
15 other things and to fulfill a responsibility that we
16 all have, that I feel very strongly, and I think many
17 of you do as well, to sustain that biodiversity out
18 there for future generations. Some of it we use now
19 and most of it we are unfamiliar with and some of it
20 will undoubtedly hold commercial and other kinds of
21 values that we don't know about yet. And that is a big
22 responsibility and we have to take that very seriously.

1 There has been some discussion about sound
2 science or just science in general and how it relates
3 to marine protected areas and since I have taught
4 biology for 15 years, I can't help but talk about that a
5 little bit, even though it may not be the most
6 important issue.

7 Science has scientists talking to people who
8 are learning about science and how we use science. We
9 could say many things. We have heard some. You have
10 some distinguished scientists on your panel. One of
11 the things that comes to my mind when I think about
12 science is observations. Marine science involves
13 observation of a variety of conditions, including what
14 we think of as the natural state. Marine ecology can't
15 be studied by observing areas that are not perturbed.

16 Another thing that is very prominent in I
17 think any scientist's mind when they are asked well,
18 what is science and what does it involve, it involves
19 control in controlled areas. If you want to understand
20 what is happening as a consequence of something that
21 you are doing, you have to have some concept of what
22 happens when you don't do it.

1 So protected areas, whatever you want to call
2 them, marine managed areas, marine protected areas,
3 areas where you don't go have a role in understanding
4 what happens when you don't perturb them inside those
5 areas and it also has an essential function in
6 understanding what is happening elsewhere. You can't
7 understand what is happening elsewhere without such
8 places.

9 The last thing I want to comment on -- there
10 are several other things in our comment letter, but the
11 last thing that I will mention that several people have
12 talked about here is our feeling that there is a real
13 concern that the existing agencies and policies at the
14 federal level to mandate or in your words -- using your
15 words, to galvanize a process for having a well
16 integrated system, national system of marine protected
17 areas, isn't there. That is our feeling.

18 If you as a group feel that the mechanisms are
19 there, we hope that you can do a clearer job of
20 delineating how these mechanisms, how the policies,
21 existing laws and agencies can make this happen and if
22 you don't conclude that they can make it happen, then

1 you need to give us some guidance on what else is
2 needed to make this happen.

3 We have heard from the Fisheries Management
4 Council and know from the Fisheries Management Council
5 that many of the things, the Marine Protected Area
6 Center, for example, identifies as important purposes
7 or uses, goals for marine protected areas are outside
8 the scope currently of the Fisheries Management
9 Council.

10 So that is a problem. The Fisheries
11 Management Council in the Magnuson Act are clearly one
12 of the things that comes closest, but as far as we can
13 see, it doesn't do the whole job. So we need help with
14 that and I hope that maybe you can address that further
15 as you refine your draft. Thanks.

16 DR. BROMLEY: Thank you very much.

17 Would anybody like to pursue a point?

18 (No response.)

19 DR. BROMLEY: If not, we will move right on.

20 Thank you, Mr. Crawford.

21 Vivian Newman, please.

22 MS. NEWMAN: Good afternoon. I am Vivian

1 Newman. I am a volunteer with the National Sierra
2 Club, the National Marine Wildlife and Habitat
3 Committee and we have been following this for quite a
4 while, as Joe knows. In fact, as he also knows, the
5 board of the Sierra Club in the 1960's was called up
6 for something very similar to what we are working on
7 now and we are still with you. I especially want to
8 thank you for the opportunity to be here and to hear
9 the deliberations and I just want to say onward and
10 please count on us for support as you go to the next
11 phase.

12 I hope that you will call on the next phase to
13 address these four subjects that you have listed in the
14 notes there. In particular, as we are speaking,
15 obviously, it is very likely that Congress will do
16 things that will open up the moratorium areas that are
17 now not available for oil and gas leasing. We think
18 that there should be some attention, in addition to the
19 effects of climate change, on marine protected areas,
20 things like species distribution and so forth that will
21 not hold still for you and we would like to encourage
22 more research sites, control sites, which I guess would

1 mean no access for a great many of us.

2 I have learned a couple of things in the
3 course of today that definitions are certainly elastic.

4 For example, participatory process really means it is
5 opened to political manipulation, that sound science
6 means what I want to hear. I can tell you that sound
7 science -- I don't use the word "sound science" or that
8 term, but it does mean that we need research sites.
9 That is what I hear. Baseline, is it the starting
10 point or is it the goal. So thank you again.

11 DR. BROMLEY: Thank you. Are there questions
12 for the speaker, for Ms. Newman?

13 (No response.)

14 DR. BROMLEY: If not, thank you.

15 Dr. Dennis Heinemann, please.

16 DR. HEINEMANN: Thank you very much for the
17 opportunity to speak and for the excellent work you
18 have done. I am a research scientist with the Ocean
19 Conservancy, which is the oldest and largest
20 exclusively marine conservation advocacy group in the
21 world and we would like to thank this committee for the
22 excellent work it has done, for the really fine job it

1 has done of developing a set of recommendations for
2 processes for the development, establishment,
3 implementation and management of marine protected
4 areas.

5 I think you also have come up with a laudable
6 set of goals and objectives, although I would agree
7 with Tundi that I think they could be strengthened a
8 bit to provide a bit stronger vision of where we should
9 be going in developing a network of marine protected
10 areas in this country.

11 I was going to speak to another issue, but
12 this -- the discussion of access has prompted me to
13 make a different comment. I think I need to say that I
14 believe that access is not an objective, it is not an
15 appropriate objective of an MPA. Access is available
16 everywhere else in the ocean and by default, it is
17 available.

18 Your MPA goals to enhance stewardship, lasting
19 protection and sustainable use have to be achieved
20 through the control and potentially limiting of access
21 to activities if you are going to achieve those goals.

22 It is the only way you are going to achieve those

1 goals is to control access and activities that are
2 incompatible -- that are inconsistent, let me say, with
3 those goals.

4 But the changes I think that you have made in
5 the fourth objective to define or to allow for
6 appropriate access, as an objective, okay, of an MPA
7 were done without any criteria for determining what
8 appropriate is. And I think that was an oversight that
9 perhaps you will want to address because I think that
10 it opens up the door, then, for access to be a default
11 condition of an MPA and I think that there has to be
12 some understanding, there has to be a determination of
13 whether or not an access -- whether access and the
14 activities that go along with access are consistent
15 with the goals and other objectives of an MPA that you
16 have already elucidated.

17 I think that making access an objective is
18 really not consistent with a precautionary approach to
19 marine management and protection, which I would argue
20 is essential if we are going to improve and restore our
21 resources and environment's access to uses that can
22 damage or impede achieving the goals of an MPA. And I

1 would argue that that potentially includes all uses.
2 All uses have the potential to be damaging and to
3 impede achieving the goals of an MPA, the goals that
4 you have established and objectives.

5 I would argue that they should only be
6 permitted when it does not impede those goals. In
7 other words, I think for decades, in our system, we
8 have allowed, by default, activities, access to our
9 oceans until we have shown that they are inconsistent
10 with whatever our goals and objectives are as a society
11 or in this particular case, the goals and objectives of
12 an MPA.

13 And I think that one of the evolutionary moves
14 that we should be making, both in terms of protecting
15 resources and in managing them effectively, is to turn
16 that whole problem around and ask that we identify
17 which activities and which -- therefore, which forms of
18 access are going to be consistent with achieving goals
19 before we allow them to create the -- to create a
20 problem that we then have to come along and solve. So
21 I would suggest that making access an objective of an
22 MPA is inconsistent with a precautionary approach to

1 management. Thank you.

2 DR. BROMLEY: Thanks, Dr. Heinemann.

3 Yes, questions from the Committee. Tundi?

4 DR. AGARDY: Dennis, thanks for your comments.

5 I think maybe the problem -- concerning your last
6 comment, I think maybe the problem is interpreting what
7 we meant when we were talking about objectives in that
8 section on page 3 because I think all of us -- in fact,
9 we got into many discussions of this in the
10 subcommittees and in the full committee in earlier
11 meetings.

12 We aren't talking about the objectives of any
13 individual MPA. What we are trying to articulate is
14 the objectives of the system. And what we are trying
15 to articulate, I think, with the access language there
16 is that we envision a system that will conserve the
17 Nation's biodiversity, protect representative ecosystems
18 while providing appropriate access.

19 So I think we are talking about the Nation's
20 waters as a whole and that is why I feel comfortable,
21 as an environmentalist, with that language. And I
22 think that is the question that Rod was asking earlier.

1 Do we mean -- are we providing access to all MPA's to
2 all users. No, that wasn't our intention. I think we
3 are envisioning a system that guarantees appropriate
4 access to the Nation's waters and resources while
5 safeguarding biodiversity, which I think is achievable.

6 DR. BROMLEY: Okay. I have Bob Zales and then
7 Mark Hixon.

8 MR. ZALES: I have got a question. When we
9 talk about MPA's and biodiversity and the whole bit, a
10 lot of that has to do with water quality. And I have
11 stated many times at this table and thrown an example
12 out about the sea grass bits, and whatnot, in
13 conjunction with using federal waters.

14 And a lot of destruction is not necessarily
15 done by users, I guess is the term, of people that
16 dive, fish, swim or boat on the water. A lot of damage
17 is done to the water quality which comes from
18 development, runoff and things like this. Well, where
19 does the Ocean Conservancy stand and what have they
20 done to try to limit some of that development and harm
21 by stuff like that?

22 DR. HEINEMANN: I think that the Ocean

1 Conservancy is -- has been very clear in identifying
2 that certain sources of pollution, certain sources of
3 disturbance and destruction to marine environments that
4 are terrestrial in origin are problems that should be
5 solved and problems that we should fix. And the Ocean
6 Conservancy has a number of programs to address those.

7 We do it on a regional basis. So it may not be
8 happening in the region where you are most familiar.

9 I would also use that as an opportunity to
10 point out that marine protected areas are not a tool
11 that can address all problems and one problem that they
12 are not particular well suited, I would argue, to
13 addressing would be marine pollution. You need other
14 measures to address marine pollution, whether it is
15 marine in source or terrestrial in source. They might
16 be able to help, but that is not one of their primary
17 goals.

18 DR. BROMLEY: Mark and then Rod. If we could
19 make them short.

20 DR. HIXON: Very short. Thank you,
21 Dr. Heinemann. Regarding the discussion you just had
22 with Dr. Agardy, I believe that reflects the issue that

1 came up for me during the break that I have already
2 stated, that objective 4 has different meanings to
3 different people as it now stands and requires further
4 clarification so that it is very explicit to everyone.

5 Thank you.

6 DR. BROMLEY: Yes. Okay. Rod. Last.

7 DR. FUJITA: Yes, thanks, Dennis. I was
8 interested in your comment about the standards to
9 define what appropriate access means. Can you
10 elaborate on that. Are there precedents, are there
11 processes that we can draw on to define what
12 constitutes appropriate access and, I mean, is -- in
13 your mind, is it essential that we define what
14 appropriate means and put out standards for it if we
15 are going to address access in this document?

16 DR. HEINEMANN: I think this committee has
17 identified a very important principle, which is that at
18 this level, you cannot get into prescribing which uses
19 are appropriate and which uses are not. Which access
20 is, you know, is possible and which not. I mean, I
21 think the discussion of which activities, commercial,
22 recreational, et cetera, and there was a whole long

1 list of potential ones, that it is sort of the
2 difficulty, I think, of prescribing at this level was
3 illustrated by that discussion.

4 However, I think that this -- one of the
5 really best things you have done, and it is probably
6 far better than it has been done in any other process,
7 is -- has been to define a set or make a set of
8 recommendations for processes for making decisions like
9 this.

10 And so I would say that deciding what is
11 appropriate should be done at the local level or
12 regional level guided by the principles that you have
13 put forward, or the recommendations you put forward,
14 and it should be done on a case by case basis. It
15 should be participatory. It should be fair and
16 equitable and open and should be knowledge-based and
17 all the other principles that you have, you know,
18 elucidated with respect to processes for establishing
19 MPA's and evaluating them, et cetera.

20 I suspect that there probably are a series of
21 criteria -- when Mark proposed the additional language
22 to item 4, I suspect that there are probably a set of

1 criteria that he had in mind, but I think what is also
2 equally important to coming up with those criteria is a
3 process that is flexible enough and adaptable enough to
4 meet the needs of each individual MPA or set of MPA's
5 that is being worked on.

6 DR. BROMLEY: Good. Thank you very much.

7 DR. HEINEMANN: Thanks.

8 DR. BROMLEY: I am afraid we have to move on.
9 Thank you.

10 Ms. Susan Farody?

11 MS. FARODY: I am going to pass, Mr. Chairman.

12 DR. BROMLEY: You are going to pass. Okay.
13 And Mr. Benson Chiles.

14 MR. CHILES: I have written comments here. My
15 name is Benson Chiles, I work with the Coastal Ocean
16 Coalition. It is a new coalition that came together in
17 the last year and a half.

18 I want to thank Bob Hayes for speaking earlier
19 today. I told him in the break that I have him to
20 thank for the creation of this coalition, which has
21 been working on the Freedom to Fish Act, or what we
22 like to call the funeral for fish act, in the states

1 and we, you know, we have been working actively with
2 the coalition of 60 organizations. There are five
3 leading groups involved: Environmental Defense, NRDC,
4 The Marine Conservation Biology Institute, the Ocean
5 Conservancy and the Conservation Law Foundation.

6 And in our written comments, you will see that
7 we are very complimentary of the work that this
8 committee has done, based on the document that we
9 reviewed, and I want you to know that we appreciate all
10 of the hard work that you have put into it.

11 One of the things that I have learned in
12 working on issues of access and marine reserves in the
13 states is that it is very difficult to put something
14 positive and proactive on the table. It is much easier
15 to work on defensive posture issues and in the context
16 of the coalition that I am working with, while we were
17 working on these FFA efforts in the states, the PEW
18 Ocean Commission report came out, the U.S. Commission
19 report came out and we were getting strong signals from
20 decision-makers and from members of the NGO community
21 that it was important to be doing proactive work, not
22 just defensive work.

1 And in that context, we have been working with
2 organizations to help them devise and promote a
3 state-based ocean's policy. And I want to just
4 recognize, in the context of this committee, how
5 challenging that can be and again, I want to thank you
6 for that work.

7 I think the challenge from here forward will
8 be how the national system of MPA's can be implemented.
9 The political will is the most difficult thing to
10 generate in the context of a proactive initiative. So
11 anyway, thank you for your hard work.

12 DR. BROMLEY: Thank you.

13 Are there questions of the speaker? Yes,
14 Mike.

15 MR. NUSSMAN: First, let me acknowledge that
16 Bob -- I don't think Bob is here anymore, but I will
17 pass him your appreciation for his hard work on the
18 Freedom to Fish Act and say that we, too, on the
19 recreational side, want to thank the environmental
20 community because it served as a huge rallying cry from
21 a variety of groups. The Ocean Conservancy and others
22 came forward with proposals to close much of the

1 coastal ocean and that, in fact, created the Freedom to
2 Fish Act or a need for the Freedom to Fish Act.
3 Perhaps that is more of a statement, but I will say
4 wouldn't you agree?

5 (Laughter.)

6 MR. CHILES: I would agree with that
7 statement. Yes, I would.

8 DR. BROMLEY: Okay. Bonnie and then Wally.

9 DR. MCCAY: Mr. Chiles, would you mind just to
10 explain a little bit about how you would talk about
11 access from your perspective. I mean, the access is
12 clearly a concern everybody shares.

13 MR. CHILES: Sure. I am not an expert in
14 these issues. So I will just state that outright.
15 What I do think -- what I know, though, is that there
16 is a lot of overlap in terms of both the environmental
17 community and the various other interest groups who
18 want to access the ocean in defining access.

19 We all agree that the ocean is a public trust
20 that should be protected and it is a public trust that
21 should be accessed for use. So we have a lot of common
22 ground and I hope that we will be able to walk on that

1 ground more often in the future.

2 DR. BROMLEY: Okay. Wally.

3 DR. PEREYRA: Thank you, Mr. Chairman.

4 Mr. Chiles, I am sure I can probably get the
5 information from your website, but since you are new
6 organization that I am not too familiar with, I was
7 wondering could you -- where does your support come
8 from? Are you a --

9 MR. CHILES: We are a project of these
10 environmental organizations.

11 DR. PEREYRA: These organizations.

12 MR. CHILES: That are listed on the
13 letterhead.

14 DR. PEREYRA: Okay. Thank you.

15 MR. CHILES: Sure.

16 DR. BROMLEY: Okay. Thank you

17 MR. CHILES: Thank you.

18 DR. BROMLEY: I think that does it. Thanks,
19 Mr. Chiles.

20 John Ogden, is your hand up or are you just --

21 DR. OGDEN: No. I am sorry.

22 DR. BROMLEY: All right. I declare the public

1 comment period closed. Thank you very much those of
2 you who came and spoke. Okay.

3 We are back to going around the room. It is
4 yours, Kay.

5 MS. WILLIAMS: Thank you, Mr. Chairman. My
6 concerns were authority. I know I have sent it out
7 over the e-mail, I have talked about it during one of
8 conference calls and our assistant administrator for
9 fisheries, Dr. Hogarth, stated that "The executive
10 order does not designate new sites, create new
11 authorities or change existing ones. Focus solely on
12 no take reserve, set specific targets, restructure
13 existing programs, supercede or ignore best available
14 science or federal-wide, state or local programs."

15 So in reading the document, of course that
16 brings concerns in my end of whether or not I could
17 endorse it. I am not certain what is going to happen
18 with this report once we sign off on it, who is going
19 to use it, how it is going to be used.

20 I was concerned with some of the things that
21 we had as far as definition of bolded terms. I had
22 concerns over funding, what happens to the MPA or

1 marine managed areas that have already been set up
2 because if we say they don't fit into our national
3 system, does that mean that they are going to go away
4 from our national program.

5 I heard some very interesting discussion
6 today, a lot of what I could support, but I wasn't very
7 clear on and that is why I know we have to be very
8 careful once this document leaves that we can explain,
9 as much as possible to the public, what our intentions
10 are.

11 So to say whether or not if I could endorse
12 this today? Probably not. Tomorrow? Maybe yes. I
13 still need to hear some more discussions in where we
14 are going and how it is going to affect all of the work
15 that we have already done and the authority that we may
16 or may not have. Thank you.

17 DR. BROMLEY: Okay. Good.

18 Bob Zales.

19 MR. ZALES: I would like to say, too, and I
20 think I made this statement at the very first meeting,
21 I have been concerned about different entities I guess
22 at times it really didn't seem wanted this committee to

1 succeed. And like some other statements that have been
2 made so far, I believe that we -- I don't know if we
3 have succeeded a hundred percent, but I think that we
4 are well on our way. I think that we have done a good
5 job and I am pleased at how we have kind of come
6 together as a group here.

7 Even though we still have a wide variety of
8 concerns, I think we have come an extremely long way
9 and I think the document is well on its way to being a
10 productive document and hopefully one that will give
11 some good advice to the two secretaries. I am not sure
12 I can -- like Kay, I am not sure I could sign off right
13 now, but I hope to be able to before this meeting ends
14 Thursday.

15 One of my concerns, obviously, is access and
16 use, which I think we are well on our way to solving
17 that problem. The other one is we get back to the 11
18 to 11 vote. I still have some concerns in this
19 document about the lack of recognition of the
20 recreational fisheries that will be involved in these
21 MPA's and involved in not only, hopefully, talking about
22 creating some of them, but also in how they are used

1 and how they are enforced.

2 Pretty much everything that the people before
3 me have stated that are problems, I agree with that and
4 I think that we all are working trying to get over
5 those and be able to come to a reasonable consensus.
6 And hopefully, we can get to the point to where a
7 minority report will not have to be filed and there can
8 be some kind of comment in the document to move it
9 forward. And whoever survives on this committee to go
10 into the next and whoever the new people may or may not
11 be, hopefully we will be able to provide them a good
12 framework and a baseline to move forward with this.

13 I also -- because I brought this up before and
14 I brought it up -- which Kay has heard me at times in
15 the council process, fishermen and people that are on
16 the water are easy targets and they are usually blamed
17 for problems and they are kind of looked at as an easy
18 fix when you take them out to solve problems.

19 But the problems that we have with our oceans
20 and our resources, I think, are probably more so
21 impacted by development. And I have serious problems
22 with that and I have serious problems with it seems to

1 be people are concerned with it, but nobody ever wants
2 to do anything. And the council process, I guess they
3 don't have the authority to play with it.

4 I am sure we don't have the authority to play
5 with it because we are an advisory group, but I think
6 that message needs to be sent to people. And a lot of
7 the complaints and the objectives or objections that
8 different organizations have with fishermen and people
9 on the water I think at times are misdirected. It
10 probably should be more focused on what I would
11 consider to be the key problem is that the source is
12 where pollution comes in.

13 And it is like I have stated, and I guess I
14 have said this so many time, the Madison-Swanson area,
15 regardless of what you do in federal waters if you don't
16 have something compatible in the state and local areas,
17 it is not going to do any good. And if you eliminate a
18 fisherman from state waters, but you don't eliminate
19 runoff and you don't eliminate and fix the water quality
20 so that the resources can drive and get back to where
21 they once were, where we would like to see them, you
22 are not going to solve the problem. So that is kind of

1 where I sit.

2 DR. BROMLEY: Thank you very much.

3 David.

4 MR. BENTON: Thank you, Mr. Chairman. While I
5 was sitting here, I was trying to organize my thoughts
6 in some kind of logical order and failed miserably, I
7 think, because of the lateness of the day.

8 Right now I guess I am of the same mind as a
9 lot of the other speakers, which is if you asked me to
10 vote on this document today, I would say I could not
11 support it. I don't think that the issues are
12 irresolvable. I think that there are some issues
13 though. And I wanted -- and so here is the issues as I
14 have tried to categorize them.

15 The first order for me is sort of the access
16 related issues. We made some good strides there this
17 afternoon, but there is other issues that are related
18 to that that we heard about from the panel that we
19 haven't touched on yet. They are not, in and of
20 themselves, going to require huge amounts of writing,
21 but I think they are important pieces of the puzzle.

22 And that has to do with the notion that -- of

1 having a clear set of goals and a purpose and an
2 identification of a problem. Why the MPA is put there.

3 That is why we put from the panel with Bobbi and Bob
4 this morning.

5 Coupled with that is the notion of having some
6 kind of an information base from which, then, you can
7 judge the success or lack of success or the
8 effectiveness or lack of effectiveness of the MPA
9 designation. Is it meeting its goal. Is it addressing
10 the problem or not.

11 Those kinds of pieces, I think, are going to
12 be very important if we are going to have a system,
13 composed of individual MPA's, that the public is going
14 to be able to buy into. They are going to have to see
15 that there is a reason and there is a way of judging
16 effectiveness and a way, maybe, that some day in the
17 future if they are excluded from that area, that they
18 can get back in there. I think that is going to be
19 really important. I think we can address it, but I
20 think we haven't yet.

21 The second one is one of those four issues
22 that are in the memo, which is something that Dr.

1 Pereyra has brought up several times, and a number of
2 others, and that is the relationship of the designation
3 and mitigation measures and management of the MPA to
4 social and economic costs and how you evaluate that
5 up-front before you do the designation and how you look
6 at those issues as you implement management measures
7 for an MPA. I think we have to address those. Again,
8 I don't think that takes a lot of drafting. I do think
9 it is a very important component of what we are talking
10 about here.

11 The third one is in the document, we place a
12 very strong emphasis on a regional process. And I am a
13 big supporter of that. I think that notion of using
14 local and regional existing authorities and entities to
15 the extent we can and having a very transparent
16 information-driven system of identification,
17 designation and implementation for these MPA's, as part
18 of the national system, is key. In fact, I think it is
19 the thing that makes it work. If it isn't there in a
20 good, strong understandable kind of process, then we
21 have not done our job.

22 And right now in the document the whole area

1 that might qualify -- of federal sites that might
2 qualify skirt that process. They are exempted from
3 that process. They go straight from go all the way
4 back around and they collect 200 bucks. And I don't
5 think that that is a good way to have this system
6 built. The one is very important to me.

7 The last two. I, too, have identified the
8 authority as an issue. I won't speak to that, others
9 have. And then there is the issue of harm, which I
10 recognize as new only in the sense that we haven't
11 really dealt with it, although we have the word "harm"
12 or "nonharmful" used in the criteria in our document,
13 and in the executive order, federal agencies are
14 charged, if an MPA is designated, to minimize harm.

15 I don't think we can define that here. I
16 think that may be one of those issues that goes on your
17 list, but the problem that I see is that we need to
18 look at the process to see what the implications of not
19 having -- not understanding what harm means. Have we
20 got it covered in the process so there is an adequate
21 way for all the public to discuss that, evaluate social
22 and economic costs, what it means in terms of denial of

1 access or not in a way for the process to address that
2 problem. I am not convinced, yet, that we have done
3 that. Those are the issue areas that I recognize,
4 Mr. Chairman.

5 DR. BROMLEY: Thank you very much.

6 Mel?

7 MR. MOON: Well, I am hopeful that we could
8 reach consensus. I know I will vote for the synthesis
9 document as it is written now. When I started this
10 process, the idea of having 33 people from this kind of
11 diversity, I just didn't think it could be done, and now
12 having gone through this two years of discussing and
13 having what I would say is witness to people giving
14 speeches and nobody listening, I think we have changed.

15 I think when people talk, we are listening to one
16 another and we should compliment each other for making
17 that jump.

18 In the executive committee, we had some
19 discussions about what is going to happen here and I
20 was still hopeful, at that time, that we wouldn't have
21 this kind of break, but we did know that there was
22 going to have to be some discussions, potentially, on

1 plan B and plan C and maybe even plan D. So my guess
2 is that we are probably -- I am not expecting
3 consensus, but I think we are at plan B.

4 We are going to have to -- I would encourage
5 everybody to continue to search for the consensus that
6 we have amongst us. A lot of valuable input has went
7 into this plan. And also I would encourage us to put
8 less in. I think we have put a lot in. I think it is
9 time to do some trimming in a less is better type of
10 approach, which -- because I think we are at the
11 greater good level. I mean, that is something we just
12 have got to put together.

13 The other key document that we haven't talked
14 about at all has to deal with the executive summary and
15 I think it is going to be important to have a document
16 that is quick to read and hits the point on what our
17 recommendations are; otherwise, I think we are going to
18 lose some of our public and they are going to -- I
19 mean, a lot of good stuff is in there, but they are not
20 going to get to it. So I would encourage us to keep
21 that close on the back burner, but ready to fire up
22 pretty soon.

1 I agree, also, with the lack of reference to
2 the Ocean Commission's recommendation. It seems that we
3 should -- there was a lot of good work put into that
4 document and that we could gain by having some linkages
5 between what that document represented and what we are
6 doing as well.

7 I also agree that we may want to put in an
8 emphasis of the MPA's as a tool. I know there is a
9 strong desire to represent how they work so well, but
10 it becomes the objective. So we need to be careful
11 about how we describe how that is going to be
12 approached and keep it just as what it is, as a tool.

13 And lastly, I had a concern about the access
14 discussions that we have been having. From a tribal
15 perspective, I am a little concerned about making sure
16 that we have the understanding of the tribal standing
17 as an entry -- a right of entry versus a cultural
18 mixing as we tend to have that problem of categorizing
19 tribes into a cultural picture and reducing that to
20 subsistence levels.

21 So when we are talking access and we are
22 dealing with the tribe as a government, we need to make

1 sure that that is preserved. And I am hopeful that
2 that carries out in most parts of the document as it
3 stands. That is it.

4 DR. BROMLEY: Thank you.

5 Robert Bendick.

6 MR. BENDICK: Thank you. I am not happy with
7 everything in the document, but if I had to vote today,
8 I would vote in favor of it. Marine protected areas
9 are not a panacea. I think as Bob Zales has said very
10 well, that they are affected by all sorts of other
11 things and we need to think of them as part of a system
12 of protection and governance of the coastal areas of
13 this country and other parts of those -- that system
14 are failing today and we need to perhaps use marine
15 protected areas as a lever to address some of the other
16 problems.

17 Having said that, I think particularly
18 important in the report is the system of governance and
19 decision-making that we proposed. I have seen time and
20 time again, over the last 30 years, where people, at
21 the regional and local level, in a good decision-making
22 process with some science support, with public

1 participation and with the right incentives, can do a
2 lot better in solving difficult problems than can
3 someone handing down those answers from above. And I
4 think that is what we forged. That is the core of what
5 we are trying to do and I think we should support that
6 and be pleased in that support.

7 There are a couple of questions. On the
8 question of authority, I think asking a question of
9 what authorities exist today is valid, but I would say
10 if we don't have the authority to implement -- not we,
11 but if the government or whoever doesn't have authority
12 to implement all our recommendations, we should ask for
13 it. We should seek that it be done to implement the
14 reports.

15 Similarly, as John Ogden said, incentives are
16 particularly important here and we need to ask for, and
17 not just hope for, incentives that will make the system
18 of governance that we are talking about operate in the
19 real world and the real hope that I have is that we can
20 come out of this discussion with a coalition that can
21 improve the system of coastal governance as part of the
22 larger system of environmental governance in our

1 country in the real world and not just on a piece of
2 paper. Thanks.

3 DR. BROMLEY: Thank you, Bob.

4 Barbara Stevenson.

5 MS. STEVENSON: Well, I was quite surprised
6 when I read the current draft that I was almost there
7 and that is an amazing situation, but there are a
8 couple of issues. I came in with one issue and now I
9 have three.

10 DR. BROMLEY: You should have stopped after
11 you just read it, Barbara.

12 MS. STEVENSON: The definition of access is
13 obviously extremely important to me and I wouldn't sign
14 off to anything until that was acceptable. I am
15 totally confused as to whether the things in your
16 letter are in or out and whether all the people to date
17 who have commented that they would support the
18 inclusion or not inclusion of those. So I obviously
19 can't say whether -- what I would support until I knew
20 whether they were in or out and when that discussion
21 occurs, there are some things there that I don't
22 understand. So that is one part.

1 The one issue that I came in with has to do
2 with objective number 2, which is, "Conserving,
3 enhancing, and/or restoring representative example of
4 the nation's marine ecosystems and habitats." That part
5 I have no problem with. I have no problem with the "as
6 well as unique biophysical and geological features."
7 The part that I have a problem with is, "in all
8 geographic regions."

9 The end result might be the same, but if you
10 have that "in all geographic regions," we have to define
11 what geographic regions are, what we mean, and then we
12 have to define, since we say we are going to do all
13 these in all these geographic regions, what is our
14 definition of a marine ecosystem as a different one
15 than another one and what is the definition of
16 different habitats. So I think those of you who want
17 them can get to the same place if we exclude these four
18 words and I can support the current document.

19 DR. BROMLEY: That is wonderfully precise and
20 helpful, Barbara. Thank you. We know exactly what the
21 issues are. Thanks.

22 Gil.

1 MR. RADONSKI: I learned a lot in the 25 years
2 that I spent in Washington, D.C. watching the
3 bureaucracy go through things like this. I served on a
4 number of advisory committees and saw them accomplish
5 things that seemed impossible. I think we are doing
6 pretty well. I think we have to recognize the --
7 whatever document we send forward is going to be looked
8 at by two secretaries, the secretary of commerce and
9 the secretary of interior.

10 Now the secretary of interior -- the
11 Department of Interior has a long history of dealing
12 with cultural renewable and non-renewable resources and
13 how they interact with users. So we are not going to
14 be telling them a whole lot new. We are going to have
15 to convince them of things. So I think that is the
16 reality of the issue.

17 To have a document move forward, several
18 people around the table have identified that you have
19 to have ownership of the document. If this document
20 goes forward and we all walk out of here and not have a
21 feeling that we have ownership in that document, it is
22 not going to last very long. I mean, everybody knows

1 how you can work within the system lobbying, et cetera,
2 to undermine issues.

3 So I mean, we have got to walk away with
4 ownership. I think that is possible and I think the
5 Chairman pointed it out when he was having a discussion
6 I think it was with Mike Nussman's comment. And we are
7 not dealing with a document here, we are dealing with
8 two documents. And I think the solution lies in a
9 document that is what we call the last version number
10 5, the synthesis document.

11 We can point out a lot of things, but we can
12 overcome its shortcomings with the transmittal letter
13 that goes to the secretaries pointing out the things
14 that we think are important but did not address. So I
15 don't think we have an insurmountable problem.

16 I -- as you know from the discussions, I have
17 very strong feelings about access and I think I am very
18 concerned with due process and telling people that they
19 cannot access a common property resource. That is a
20 very, very big issue with me and until I get some
21 satisfaction, I would not sign off on the document, but
22 I can live with, if we do not come to a consensus on

1 that, in a transmittal letter, that we dealt with it
2 and it needs further attention in future advisory
3 committee efforts. That is one way to go.

4 So the point I want to make is that we are not
5 dealing with one document, a consensus. We have to
6 identify -- in a very positive sense, we have to
7 identify what we have done and in the cover letter
8 saying we have done what we can in two years and we
9 have not reached agreement on other issues that are
10 vitally important. Thank you.

11 DR. BROMLEY: Thank you.

12 Okay. George.

13 MR. LAPOINTE: Thank you, Mr. Chairman. I
14 will be brief. It is my intention to sign off on this
15 document. We have done a great amount of work on
16 access and I understand there is still some work to be
17 done on that, but I think we are getting closer. The
18 bevy of definitions that were put forward, I think we
19 can work with. I was struggling with rights and
20 privileges and Max brought me back to rights because I
21 was going towards privilege for the very reason Mel
22 mentioned. So that is a critical issue, the entire

1 access issue and that definition, but again, I think we
2 can get there.

3 The -- I share Gil's not concern, but view
4 that the mailbox issues, the four we have right now,
5 should be acknowledged in one of two ways. One is if
6 we can discuss them and put them to bed in the
7 document, which means I still believe in Santa Claus I
8 think, but I mean, it is worth a try.

9 (Laughter.)

10 MR. LAPOINTE: Or in the transmittal letter to
11 talk about those things that we need to do as we move
12 forward. And one of the reasons I am comfortable with
13 signing off, again, given those provisos, is again,
14 what I said earlier is that this is not the final goal
15 at marine protected areas in the two offices. We are
16 providing a springboard for further action and so we
17 can carry on. And I think that should give everybody
18 the confidence that we can continue to work on those
19 issues that are hanging for them still.

20 DR. BROMLEY: Thank you, George.

21 Tony.

22 DR. CHATWIN: Thank you, Mr. Chairman. I

1 think I share the view of my colleagues that -- and
2 agree that we have come a long way. I remember how we
3 struggled to understand what our mandate actually was
4 and so we struggled through many, many different
5 aspects of the work that we have been doing. And I,
6 too, have felt it an enriching experience to see a lot
7 of different people come to the table with their own
8 set of values and through this -- the work of this
9 committee, identify some common values, some values
10 that we all share.

11 And I strongly believe that this document
12 contains or reflects those values and that goes to the
13 participatory -- the importance of participation and
14 the importance of setting goals and objectives through
15 a participatory process and monitoring the performance
16 of MPA's towards those goals and objectives and then
17 adapting the information that comes out of that
18 monitoring.

19 So the way I hear the comments around the
20 table, I haven't heard much criticism, and we are not
21 all the way around, but of what is actually in the
22 document right now. I have heard a lot of concern

1 about what is not in the document and I ask you all to
2 remember that we struggled with a lot of different
3 things and a lot of things were put in the document,
4 taken out of the document. Tone was very different.
5 We have toned down the tone, we have removed some big
6 chunks of introduction and the conclusions because it
7 wasn't to the liking of everybody all with the
8 objectives of honoring those common values.

9 And so I am prepared to support the document
10 as it is written. I will make the statement that I
11 think access is extremely important. It is important
12 for what it says and it is important for what it doesn't
13 say. And I, too, look forward to resolving that issue
14 before we take a vote.

15 And I would say that if do go down the road of
16 the two documents, one letter addressing things that we
17 haven't addressed, I think that there are a lot of
18 things in this executive order that we haven't addressed
19 that are of extreme importance to the conservation
20 community.

21 And depending how the access discussions go, I
22 mean, it has direct relevance to the levels of

1 protection of different MPA's and gaps in those levels,
2 which were a part of our charge and we haven't addressed
3 because they went -- they didn't fit into those common
4 values that we have reached. So I am prepared to
5 support the document that reflects its current state.

6 DR. BROMLEY: Thank you.

7 Wally.

8 DR. PEREYRA: Thank you, Mr. Chairman. I will
9 try to be brief also, although I do have a couple of
10 comments that I want to make. First, I did pass along
11 to everyone my comments in an e-mail on the 13th of
12 April and my comments were somewhat inclusive in terms
13 of their totality as to what I felt was missing and
14 some areas of concern I had and I first would like to
15 thank the Committee that was doing the drafting, and so
16 forth, for taking a number of my comments into
17 consideration.

18 In particular, the first concern I had was the
19 statement of need, the preamble to our report, in which
20 I felt there was an overemphasis on problems and not
21 enough recognition that there have been improvements
22 and there are some areas, which -- where actually

1 things are quite decent at the present time. And that
2 section has been sort of put in a neutral camp. Maybe
3 it doesn't have as much passion on one side, but from my
4 perspective, it did have enough passion on the other
5 side. So now it is sort of passionless, but it is
6 successful.

7 (Laughter.)

8 DR. BROMLEY: A happy marriage anyway, huh?

9 (Laughter.)

10 DR. PEREYRA: Exactly. So I mean, we have
11 been to a counselor and now --

12 DR. BROMLEY: Yes, right.

13 DR. PEREYRA: The second area in the report
14 that gave me concern was the advocacy side. I felt
15 that our charge, and it reflects my view of why we are
16 here, was largely to make recommendations on a national
17 system and not be as focused as we have been on some of
18 the aspects of MPA's that speak to their importance and
19 so forth.

20 That as it may be, I recognize that the MPA
21 Center wanted some thinking on those areas and so they
22 are in our documents and while if I were to be the

1 drafter of the document, I might choose to de-emphasize
2 it, that as it may be, I would be willing to go along
3 with what is in there.

4 I do think, though, that there is a need
5 for -- and still is a need to speak a little more about
6 the access issue, the use issue, the sustainability
7 issue, that aspect of it. Certainly conservation is
8 important as part of the sustainability equation, but
9 there is the other side and I think that has to provide
10 some balance.

11 But the last area, which is the one that I
12 probably have the most passion for at the present time
13 in terms of report, and that is to do with the process
14 itself. I see the process flowing from a problem
15 through a participatory process that looks at all the
16 alternatives to solving the problem and MPA's being one
17 of the tools in our tool basket, our toolbox.

18 The report, because it is so strong in the
19 advocacy side of MPA's, tends to either downplay or
20 outright throw out the other tools and not give them, I
21 think, proper consideration. I think they need to be
22 in this process. And that also is consistent with the

1 whole federal process underneath that one has to go
2 through that. And I think that we need to make our
3 report consistent with what is really the reality of
4 how this will proceed in the larger environment.

5 That is missing and I made a number of
6 specific recommendations in my -- it wasn't a redraft,
7 but in the e-mail that I sent, the attachment, all of
8 those recommendations were not included. I appreciate
9 the reason why. It is an issue that probably hadn't had
10 a lot of debate at the Committee level or subcommittee
11 level and for that reason, it was deemed to leave it
12 out at the present time. I would hope that we might be
13 able to get to that. Without that, I will have
14 difficulty signing off on the report in its present
15 form, even though I appreciate the changes that have
16 been made.

17 And the last comment I wanted to make has to
18 do with the suggestion that maybe we would have, in a
19 conclusion section, some sort of a listing of the areas
20 that we were not able to reach compromise and so forth.

21 From a professional standpoint, that might be a good
22 way to go to get it included and so forth, but I am

1 concerned in doing that that they are not going to be
2 properly weighted in the report and I would not be
3 supportive of that sort of approach.

4 I would rather have us go through and work
5 this report to the point where we have the minimal
6 level of acceptance necessary for us to get a consensus
7 of all the members of the Committee and I appreciate
8 very much all the efforts that have gone into this.
9 Thank you.

10 DR. BROMLEY: Thank you.

11 Michael.

12 DR. CRUICKSHANK: Thank you, Mr. Chairman. I
13 have four concerns, which I know might put me on the
14 other side of the table, but let me go through them.
15 We are required by the executive order to provide
16 recommendations to the secretaries and as it stands, we
17 have a whole lot of recommendations throughout the
18 report itself. I would think that we could probably
19 have selected part of the report, perhaps conclusions
20 and recommendations, specifically the recommendations
21 that we are putting forward for action by the
22 secretaries.

1 And the second one is the issue of mineral and
2 energy resources. And the definition of an MPA in the
3 executive order, again, they talk about all the natural
4 and cultural resources therein. And to me, all the
5 natural resources includes oil and gas, energy and
6 everything else. And we have no approach to defining
7 that we are not going to be talking about them or that
8 we are going to be talking about them.

9 And so they are already in place for many
10 authorities handling or managing these resources than
11 there are within the Department of Interior. And it is
12 my understanding that the Department or the NMS,
13 specifically, is going to weight our recommendations as
14 to whether we want to pursue those or not. The present
15 leasing areas involved are actually a major part of the
16 EEZ and far outweigh any of the areas, combined areas,
17 I believe, in the ocean of the U.S.

18 The other thing is that the definition of, you
19 know, natural resources I guess is mentioned already,
20 but there are places throughout the document, which if
21 we do address this issue on minerals and energy, we
22 have to then go back and revise, perhaps, all of our

1 definitions of the resources. We have to define what
2 natural resource means in terms of this document in
3 terms of our recommendation.

4 And then the last one I have a problem --
5 concern about is the NEPA approach under this document
6 prepared. It becomes a national system for MPA's. It
7 is a national system that automatically falls under
8 NEPA and that in addition, an MPA must therefore go
9 through the process, it is my understanding, and we
10 should say something about that because we have totally
11 avoided addressing NEPA.

12 DR. BROMLEY: Do you mind if I ask a
13 clarifying question, Michael. NEPA talks about major
14 federal actions as distinct from national and I think
15 we have tried really hard to keep national separate
16 from federal, but this is just a point of clarification
17 on my part, which --

18 DR. CRUICKSHANK: I have always considered
19 national and federal to be related.

20 DR. BROMLEY: Yes, they are two separate
21 things. The federal government does stuff. This is
22 NEPA.

1 DR. CRUICKSHANK: NEPA. Right. NEPA is
2 required to --

3 DR. BROMLEY: Take federal actions.

4 DR. CRUICKSHANK: Federal actions. Yes.
5 Okay. So making -- having the Interior or NOAA bring
6 an MPA into the national system is truly a federal
7 action. And so we have to look at that issue.

8 MR. URAVITCH: Right. At present the way we
9 intend to handle that is there -- we believe there is a
10 NEPA requirement in terms of the national system. We
11 are talking to the NEPA specialists in commerce and
12 shortly interior to see what the right mechanism is to
13 do that and then at what level.

14 But then specific MPA's within that system are
15 going to have to follow their own NEPA requirements
16 when they are established or when management plans are
17 modified or things of that nature. So NEPA will apply
18 to the national system and how we are putting the
19 system together, but then it will apply to the
20 individual MPA's based on that agency's actions with
21 those MPA's.

22 DR. CRUICKSHANK: Whether it is in the OCS or

1 the territory waters.

2 MR. URAVITCH: Correct. And comparably, any
3 state authorities that are similar.

4 DR. BROMLEY: I am sorry to interrupt you,
5 Michael, but I just thought a clarification was --

6 DR. CRUICKSHANK: And the report is very full
7 and I think that a lot of it is issues that could be
8 condensed in the executive report. It needs to be more
9 succinct, but it is certainly -- I am very, very proud
10 to have been a member of the effort here. I think it
11 is a very, very fine and as far as signing off on it, I
12 think it can be juggled. I would certainly be prepared
13 to sign off on it given that these efforts -- this
14 issues that I have are addressed as well. And maybe I
15 ask here also, I am not sure what happens to these
16 four --

17 DR. BROMLEY: We will talk about that. We
18 will talk about that.

19 DR. CRUICKSHANK: Thank you.

20 DR. BROMLEY: Thank you very much, Michael.

21 It is 10 until 5:00. I plan to keep going.

22 So Rod, you are on.

1 DR. FUJITA: Thank you, Mr. Chairman. I can
2 support this draft report as written. I think we have
3 addressed a lot of very important issues thoroughly and
4 well, including the issues of access and use, with our
5 compromised language offered by the subcommittee on
6 access.

7 I should say, though, that I would be inclined
8 not to support this report if additional language on
9 access crept in, which would cut against precautionary
10 principle, which would limit the ability of resource
11 managers to address punitive threats proactively and
12 prevent damage in a proactive way.

13 I think with respect to authority, I like
14 Max's suggestion that we request an analysis of the
15 existing authority, whether it is sufficient to
16 implement our recommendations, and if not, we ask for
17 that authority to be established.

18 And with respect to the remaining unresolved
19 issues in your memo, social and economic cost benefit,
20 the least cost alternative, the definition of harm, in
21 my mind, those are very substantive and large issues
22 and while I think that they are resolvable, I have my

1 doubts as to whether we could resolve them in the time
2 we have left in this meeting.

3 DR. BROMLEY: Thank you.

4 Eric Gilman.

5 MR. GILMAN: Thank you. My only substantive
6 issue with the current draft of the document is the
7 amendment that was made today to objective 4, which I
8 believe will be interpreted in its current wording to
9 imply that we are suggesting an objective of the
10 national system of MPA's is to promote access. I think
11 that needs to be clarified over the next two days.

12 My one suggestion for improving organization
13 is to echo the recommendations by Michael to include an
14 executive summary that would state precisely and
15 clearly the recommendations we are making to the
16 Departments of Commerce and Interior. I don't want to
17 elaborate on that.

18 Other than that, I just quickly jotted down
19 eight of the remaining recommendations that are in the
20 document that are important to me. We are recommending
21 a precautionary approach towards preventing problems
22 from occurring. We recommend from a single-species

1 ecosystem-based focus to just providing equitable
2 treatment and opportunity for involvement in the
3 process by all groups with an interest in marine
4 resources through a regional bottom-up process.

5 We recognize that there are multiple purposes
6 for establishing and managing a system of MPA's; in
7 short, MPA's are more than just fishing. We recommend
8 promoting the sharing of resources through enhanced
9 communication and collaboration between entities
10 responsible for individual MPA's and what we call
11 institutional networking.

12 We recognize that MPA's are one of many
13 strategies for addressing existing or potential future
14 problems, which could potentially exacerbate problems
15 in some situations. Just sort of temporal and spatial
16 displacement of effort. In short, MPA's are not a
17 panacea.

18 One comment that I had earlier was to
19 institute regional and international collaborations to
20 manage shared ecosystems and highly migratory species
21 through transboundary MPA's. And finally, that there
22 needs to be a mechanism for financial sustainability

1 for the implementation of the system.

2 DR. BROMLEY: Thank you very much.

3 Jim.

4 DR. RAY: My lead off comment is I am pleased
5 and quite amazed that we have reached the level of
6 consensus we have so far. I think the version 5
7 addressed a lot of the concerns I had in previous
8 versions. I think we are almost there. I am not ready
9 to commit on my vote yet.

10 I was doing good until about 15 minutes ago
11 and then when we started talking about a qualifier
12 letter that has things in it that we can't agree to in
13 the report, I have a big problem with that. I would
14 not sign off on that. The report should be standalone.
15 The transmittal letter should just be a very high
16 level executive summary reflecting what we agreed to in
17 the Committee.

18 DR. BROMLEY: No way, Jim, would I write such
19 a letter.

20 DR. RAY: To my interest group, access is a
21 key issue and it is time we handle that. That would
22 make a big difference on whether or not I would sign

1 off on the report.

2 Just a couple of just general comments. I
3 think the issue of MPA's in connection with
4 biodiversity, as a biologist, I have absolutely no
5 problem with that. As a concept to public user groups,
6 I think that is going to require a lot of education for
7 that one to really succeed.

8 I have some minor concerns over the way we
9 word the lasting protection as far as indefinite
10 meaning the intent to be determinant. That carries a
11 lot of legal baggage with it the way it will be used
12 and misused in the future. So I know Mark won't want to
13 hear this, but we probably ought to just talk about
14 that a little bit again because I think that could be
15 confused.

16 I think one of the key issues for the success
17 of a national system is going to be the whole issue of
18 incentives and funding. Unfortunately, I think our
19 recommendations to the secretaries for an increased
20 level of funding, that sounds good, but they are still
21 in the awkward position because it is hard for them to
22 go recommend to Congress that their funding be raised.

1 So somehow or other, if there is a consensus
2 in this committee, if funding is a part of the issue
3 for this to succeed, then we have to find a way, from
4 this report, for that message to get to Congress from
5 this committee because the secretaries are in an
6 awkward position to make those recommendations
7 themselves.

8 The -- I have some concerns that I think we
9 still should discuss with regards some of the
10 prescriptive language that are used in the conclusion
11 section on page 17, line 30, et sequence. It is
12 difficult -- when you get that prescriptive, you start
13 treading on dangerous territory as far as people's
14 willingness to accept that.

15 I think that covers most of my high level ones
16 now and I think the real key one for me now is coming
17 back to the issue of access and how we handle that
18 issue and also how we handle a couple of the issues in
19 the four items in your cover letter. I have --
20 obviously I have a problem with one of those. That is
21 all I have got for right now.

22 DR. BROMLEY: Thank you.

1 Dolly.

2 DR. GARZA: Thank you, Mr. Chair, and I really
3 am grateful we started on that side and sorry you were
4 three.

5 MR. NUSSMAN: You should be.

6 DR. GARZA: I only have three fairly minor
7 points and then just sort of my gut feel for it. We
8 did, and I do want to apologize to Bonnie and to Rod
9 and to Lelei because we had some discussion that
10 everybody didn't see on traditional ecological
11 knowledge, local knowledge. And there are a number of
12 terms in here and I think that we need to summarize
13 them to the -- I think the two short ones that we -- I
14 think we agreed to, which was customary and local
15 knowledge. And so we just need that -- to cut it down
16 to that and then keep moving.

17 This is when I travel. I have been traveling
18 since the last meeting that we had and I have not spent
19 more than four days in my hometown. And so I have to
20 do some catchup work in terms of looking at this
21 report.

22 The other thing was stewardship. And I do

1 understand that. We took some of the passion out and
2 now we are sort of passionless, but in stewardship,
3 stewardship doesn't happen unless there is passion. And
4 so I need to see the word "commitment" back in there. I
5 did fight for it for a couple of meetings, but if
6 individuals and groups don't commit to a stewardship in
7 an area, they are not going to go to the meeting and
8 they are going to do nothing but complain. This is
9 what I do as part of my job. And so we need to get
10 that word back in I think. And then also -- so that is
11 on page 14, line 34.

12 Page 16, line 20 we talk about power sharing
13 and I think in parenthesis we need to put "example
14 given co-management." That is a process that can work.
15 It doesn't have to be the process that works all the
16 time, but co-management is being used in Alaska. If
17 you talk to the -- our senators, the national senators
18 and representatives, they like that terminology because
19 it provides for local participation and local
20 commitment to processes. So I would suggest we put
21 that in as an example, not necessarily as the way that
22 it has to be.

1 And then beyond that, just my general feel, I
2 mean, I look at this document and, you know, it does
3 require -- at almost all levels, it will require state
4 participation, perhaps regional advisory council
5 participation, MPA region participation. And I am
6 thinking of an example of when exactly would it be
7 used. And it often may not be depending on the state.

8 In Alaska, I can count on it not being used at
9 all until we have some change in government. And so
10 this has sort of been a ride for me because I don't
11 imagine us using it because it requires a state
12 commitment and the state suspended its MPA committee
13 that it created. It put it on ice two years ago and I
14 don't expect it to come off ice for quite some time.

15 But I do see, in some senses, where it could
16 be used by communities who are trying to protect and
17 not exclude all uses, but protect sensitive areas.
18 That may require some changes in use patterns, but will
19 still provide some level of opportunity while providing
20 some important levels of protection. And those were
21 primarily with marine mammals. One is with seal
22 pupping, the other one is with Beluga.

1 And I see this as a step where this is
2 actually a proactive step providing levels of
3 protection so that we don't reach a level of ESA
4 threatened listings, ESA endangered listings where we
5 have mandated protections under critical habitat. So I
6 see this as a step of let's provide some protections now
7 and we are never going to get to that horrible step
8 that Alaska has had to face with sea lions and possibly
9 with sea otters.

10 And so I do -- whoever said it earlier, I
11 mean, we need to remember this is a tool in the toolbox
12 that on occasion will be used, but isn't required of
13 everyone and in that sense, I do support the report as
14 it is written. Thank you.

15 DR. BROMLEY: Thank you.

16 Bonnie, you get the last word.

17 DR. MCCAY: Well, I don't have very much to
18 say. I think all I will add to this is that I think in
19 talking about whether the creation of a national system
20 would call into play NEPA requirements and so on makes
21 me think that maybe we don't have such a big problem
22 with the costs and benefits and alternatives questions

1 that Wally brought up because those are inherently
2 there and perhaps we could handle it by making some
3 more explicit reference to these regulatory
4 requirements. I mean, not just NEPA, but RFA and
5 others that may -- you know, do require looking at the
6 alternatives and the costs and benefits.

7 So, you know, it is something we might talk
8 about. It may be that we already have that there. So
9 otherwise I am in favor of the document. I thank Dolly
10 for reminding us that we have to clean up some of that
11 language, but also for the point that this also can be
12 a tool for communities, for various groups that can be
13 much more proactive with this kind of support.

14 DR. BROMLEY: Thank you very much. Okay.
15 Here is my hope. Here is the way I see the landscape.

16 We have -- a number of you have expressed concern
17 about access, the issues of access and use. We have a
18 subcommittee created empowered to address that issue
19 and come back to us at 8:00 in the morning.

20 DR. MCCAY: Definition of access.

21 DR. BROMLEY: Definition of access. Thank
22 you. Okay. The ex officios are asked that in the

1 morning I would like to give you two or three minutes
2 to tell us your sense as to where we are. Is that
3 okay, Brian, Larry?

4 MR. MALONEY: I mean, I think I am ready to do
5 it right now. So it will be a short statement.

6 DR. BROMLEY: Short statement. We like those.

7 MR. MALONEY: Okay. You know, since this
8 report is going to be going to my boss, the Secretary
9 of the Interior Gail Norton, for her consideration and
10 her decision, I don't think it is appropriate, it is
11 probably a violation of the principles of the Federal
12 Advisory Committee Act, to comment directly on the
13 substance of the report.

14 I do feel safe in saying that the Secretary of
15 the Department of the Interior was very appreciative of
16 all your hard work, your civility and your willingness
17 to work together to put together a quality product.
18 Now I believe you have got -- to use a sports metaphor,
19 I think you have got the ball on the three yard line
20 and I encourage you to go ahead because there is, you
21 know, glory ahead.

22 (Laughter.)

1 DR. BROMLEY: Well, when we came this morning,
2 I thought we were in a two-minute drill, but I am happy
3 to learn the ball is on the three yard line now.

4 Tom, did you have equal reticence?

5 MR. KITSOS: I am reminded of a statement that
6 the former -- the late, but very prestigious member of
7 Congress, Mo Udahl, said, "I think everything that
8 possibly could have been said on this subject has been
9 said it is just that not everybody has said it."

10 (Laughter.)

11 MR. KITSOS: This has been a fascinating
12 experience for me my first time out filling in for
13 Mary. Having spent three years with the Ocean
14 Commission and going to meetings very similar to this,
15 I am ready to go home.

16 (Laughter.)

17 MR. KITSOS: Or at least adjourn for the
18 night.

19 DR. BROMLEY: Brian, can you top that?

20 DR. MELZIAN: I think I can.

21 (Laughter.)

22 DR. MELZIAN: I would like to commend the

1 Committee, especially the executive committee, for all
2 the hard work in putting Humpty-Dumpty together. That
3 is not an easy task. Having said that, backing up what
4 Mel had recommended, since it is likely that I will be
5 the one that briefs the assistant administrator and
6 maybe the administrator on this issue in the future, it
7 would be very helpful to have a very strong and concise
8 executive summary to this document with a list of
9 concrete recommendations and perhaps action items for
10 the federal agency, in addition to the Department of
11 Interior and Department of Commerce, because EPA is
12 listed in the executive order. It is not just DOI,
13 Department of Interior, Department of Commerce.

14 In the model of the U.S. Commission on Ocean
15 Policy's report they had 212 discreet activities or
16 recommendations that we in our agency look at each one
17 of them -- I did -- and came up with a spreadsheet
18 about how our agency would respond. And so that can be
19 very helpful and very powerful. Next steps,
20 authorities, incentives, funding. Those kinds of
21 information are very useful to us.

22 And then lastly, perhaps it might be useful to

1 at least cite the Ocean Action Plan that the CEQ
2 mentioned at our last meeting. They will be looking
3 for that and that is a direct linkage to the White
4 House. Thank you.

5 DR. BROMLEY: Thank you. Wonderful. Okay.
6 Let me see, by way of summary, where we are. We will
7 have a definition of access in the morning I believe.
8 One of the issues that was in the memo that was -- that
9 needed to be addressed concerned authorities and Max
10 Peterson, perhaps with Dave Benton's involvement as
11 well -- I can't be sure, I have got a stack of paper
12 here -- have addressed the issue of authority, some
13 language. We are not going to introduce that tonight.

14 Max, thank you for doing it. I will be happy to
15 distribute it to everybody tonight if that would be
16 your hope.

17 MR. PETERSON: Thank you.

18 DR. BROMLEY: Okay. So we have some escape
19 language maybe, some treatment of the issue of
20 authority, yes, and if you could get that started
21 around, we will bring that up in the morning.

22 The last issue is what to do with the serious

1 grievances. And let me say that I had no intention of
2 writing a cover letter or a transmittal -- if indeed I
3 am the one that has to write this thing, I am not
4 sure -- containing, Wally, these things. Okay. Or
5 whoever. Jim was concerned about it too. That we
6 should not do. All right.

7 What I would hope is that the grievances that
8 we have heard around the table this afternoon, some of
9 them speak to access, some of them speak to stuff that
10 we still have to work out. It would be marvelous, it
11 seems to me, if we could have a section in our report
12 called "Unresolved Issues," which may be three or four
13 of the ones that showed up in my May memo, it could be
14 other things that we have heard around the table.

15 And in that spirit, I would like to ask those
16 who raised those issues, those serious issues that have
17 not yet been addressed, to do us the favor of forming
18 themselves into a committee that would report back to
19 us in the morning with some explicit language about
20 what it is that you would like to say in that section
21 on unresolved issues that you believe everybody could
22 sign off on.

1 So in a sense, this is language that does not
2 make recommendations, it does not state positions, but
3 it says we feel strongly that these issues have not
4 been addressed and they must be addressed in the next
5 go around. And that will give us a sense as to what
6 can be put in the document. And then if there are
7 things that are so difficult to get agreement on, then
8 those become the topics of a minority sort of
9 statement. And I guess I am asking those of you who
10 have grievances, can you give us some language in the
11 morning that would command wide assent? Mike and then
12 Dave.

13 MR. NUSSMAN: Mr. Chairman, I am not sure if I
14 have grievances or not and perhaps won't until tomorrow
15 afternoon. I know I have some issues that I want to
16 understand more about, I want to hear further
17 discussion about. And I think in a sense, perhaps, we
18 are -- I don't want to, you know, agree to provide
19 language or at least in not providing language, lose my
20 opportunity to provide language if, in fact, after some
21 discussion we can't come to some accommodation. So in a
22 sense, I am -- I understand what you are trying to do.

1 DR. BROMLEY: I want to know precisely in the
2 document the things that have not been sufficiently
3 addressed in the eyes of some of our members without
4 forcing us to take a position on them, other than to
5 agree that we have not discussed them.

6 MR. NUSSMAN: No, I understand what you are
7 trying to do, but to the extent we come in tomorrow and
8 agree to find issues we can't address, I can guarantee
9 you during the course of the day, we are not going to
10 come to any agreement on those five issues. So my
11 concern is I am not sure it is the right timing on
12 that. But let me think about it a little bit.

13 DR. BROMLEY: Yes, David Benton and then
14 Wally.

15 MR. BENTON: Thank you, Mr. Chairman. I guess
16 maybe I am sort of perplexed like Mike a bit. I tried
17 to preface my comments that these were important
18 issues, but I thought that they were not irreconcilable
19 and things that actually I sort of thought we could
20 deal with and get maybe not all of them, but maybe more
21 of them dealt with and actually agreed to in the
22 document.

1 It seems to me that we should make that effort
2 first and then if, you know, as you have said, if we
3 can't reach agreement, then we should have some vehicle
4 for dealing with that and maybe that is the same kind
5 of thing that Mike is talking about, but I really think
6 we should -- I am kind of hoping that we are going to
7 have the opportunity to go through and actually try and
8 work out a few of these things because as -- like the
9 NEPA issue that just was discussed a few moments ago,
10 you know, given the clarification we got, I don't think
11 that is a big deal to put a reference and a way to
12 resolve that issue in the document.

13 So are you -- I guess my question then back to
14 you is, is there going to be an opportunity for us to
15 go through systematically and sort of try and deal with
16 some of these items --

17 DR. BROMLEY: Yes.

18 MR. BENTON: -- and then go to where you are
19 going?

20 DR. BROMLEY: That is what I would like to
21 have it included in that section, but let me turn to
22 Wally.

1 DR. PEREYRA: Mr. Chairman, I guess I am a
2 little perplexed because that is exactly what I did in
3 my April 13 e-mail. I went through the document and
4 this particular issue regarding, you know, the process,
5 the searching for the least cost alternative.

6 DR. BROMLEY: Right.

7 DR. PEREYRA: That sort of raises the essence
8 of the NEPA process. I did that and went through, item
9 by item, the various areas of the document where I felt
10 that some wording to that effect was appropriate to
11 give it substance.

12 I think just stating in some place we are
13 going to follow the NEPA process where appropriate, it
14 doesn't go far enough because I think the board needs to
15 reflect the fact that we believe that this is a process
16 that is worth following, whether it is at the federal
17 level or at a tribal level or at a state level or
18 whatever, that in the process of gaining acceptance,
19 that that is necessary.

20 DR. BROMLEY: Wally, it seems to me that to
21 ask this committee to agree that the valuation of
22 economic and social benefits and cost before the

1 establishment of an MPA, it strikes me as a new and a
2 big issue, but I could easily see, Wally, in this thing
3 I am asking for a statement that says there are members
4 of the Committee who believe that this is an important
5 issue that needs to be discussed further. That puts it
6 in a different category than saying no MPA can be
7 established without a social and economic benefit cost
8 analysis. Okay. So what I am asking for is -- that is
9 why it got put to the side.

10 DR. PEREYRA: I didn't say that it had to be a
11 social and economic benefit cost analysis. I mean,
12 maybe there is --

13 DR. BROMLEY: But there was economic --

14 DR. PEREYRA: -- economic assessment.

15 DR. BROMLEY: -- assessment of the economic
16 effects or whatever the language was.

17 DR. PEREYRA: Benefit cost analysis would be
18 done at a higher level.

19 DR. BROMLEY: Fine. But it would be one thing
20 to say that there are a number of members of the
21 Committee who believe this is an important issue to be
22 addressed in the future, the role that the assessment

1 of benefits and cost might play in the establishment of
2 an MPA and it needs to be addressed. That is a
3 different kind of thing than putting in, which is I
4 think the way you had it. Those things must be weighed
5 before a site can be considered for an MPA.

6 DR. PEREYRA: I appreciate the concerns that
7 some members of the Committee may have with that kind
8 of language and I respect that, I respect their
9 position. By the same token, I mean, I think I have
10 bent over quite far to -- I am not quite to the
11 breaking point yet, but I can feel quite a bit of
12 strain on some of the statements regarding ecosystem
13 connectivity and biodiversity and so forth.

14 I, you know, from my perspective, I think that
15 is -- you know, it is sort of up here floating around.

16 I don't think it really -- but and I think if that is
17 what is needed, I think we need to find compromise
18 throughout the report and just as we could say in that
19 case there are, you know, a half a dozen or more
20 committee members that feel that this is an important
21 issue that needs to be addressed.

22 DR. BROMLEY: Okay. Then -- I mean, let's

1 just stick with this issue, Wally. Then in a sense
2 what you are saying is that you are unable to put in
3 here that the benefits and costs of MPA's should be
4 assessed. You are not able to put that in as a
5 suggestion for future work and in a sense, you are
6 saying for you it is a deal breaker, that if there is
7 no assessment of economic benefits and costs of an MPA,
8 then you can't accept the report. Then that goes into a
9 separate kind of thing, which is a minority report.

10 I am trying to figure out which things are
11 going to survive as minority report, sticky, big deal
12 breaker issues, and which ones we can agree on have to
13 be addressed in the future and did not get addressed
14 here.

15 DR. PEREYRA: In summary, what I am looking
16 for is maybe a shade of grey, which is acceptable. It
17 is not black and white in my mind and the way it is
18 now, it has been totally, I would say, excerpt from the
19 report. There is no inclusion of it in these various
20 series.

21 DR. BROMLEY: That is right, there is not.

22 DR. PEREYRA: Right. And I -- that is a deal

1 breaker for me.

2 DR. BROMLEY: Okay.

3 DR. PEREYRA: There may be some grey language
4 that could be inserted in various places that would be
5 satisfactory, but at the present time, I don't think
6 I -- that I would be comfortable.

7 DR. BROMLEY: That is fine. I am not saying
8 there can't be deal breakers.

9 DR. PEREYRA: Yes.

10 DR. BROMLEY: It would be my hope that we can
11 reduce those deal breakers to two or three things. And
12 maybe this is one of them.

13 Dave Benton.

14 MR. BENTON: Well, I think --

15 DR. BROMLEY: Dave and then Bob, George, then
16 Tony, Max.

17 MR. BENTON: I think the more important thing,
18 Mr. Chairman, instead of debating the merits right at
19 the moment is whether or not there is going to be an
20 opportunity to try and resolve the issue. That is the
21 thing. If we are not going to be allowed the
22 opportunity to try and resolve those, that is fine.

1 Then let's get on with whatever it is we are going to do
2 and maybe we can get out of here earlier.

3 If, on the other hand, we are going to try and
4 do the hard work to try and resolve some of the issues
5 that have been raised around the table, then we need to
6 figure out a mechanism and set aside the time and do
7 the work. I think that is -- to me, that is the issue
8 right at the moment.

9 I think, you know, I am sort of like Wally. I
10 think that you can probably come up, given the
11 opportunity, to come up with a way of addressing the
12 issue in the way the process is set up that we are
13 talking about that is a no harm, no -- well, to me it
14 is a no harm, no foul issue. I mean, it is something
15 that you obviously have to do, but we will have that --
16 we can have that debate. The question is, are we going
17 to have that opportunity.

18 DR. BROMLEY: Sure.

19 MR. BENTON: And I think you need to help us
20 understand the course of events tomorrow in how we can
21 be most efficient about that because tomorrow is the
22 work day it sounds to me like. That is where I think

1 we are at.

2 DR. BROMLEY: I thought I was doing that,
3 David. I thought I was asking the group, the
4 individuals who have concerns about the report, to help
5 us figure out which ones are big deals and which ones
6 could be put into a section called unresolved issues,
7 which could be addressed in the future because my guess
8 is -- I haven't looked at Lauren's computer, but she has
9 probably got lots of things. I made notes of lots of
10 things.

11 Some of them could be left to the future and
12 some of them some folks want to be worked out tomorrow,
13 let us say, before they can decide whether or not they
14 can support our work. And I would just like some --
15 two lists of these concerns so we will know the scope
16 of what we are addressing.

17 MR. BENTON: Mr Chairman.

18 DR. BROMLEY: Yes.

19 MR. BENTON: Just a minor response. It seems
20 to me, then, the burden should be upon those folks,
21 myself included, but folks that have big ticket
22 concerns.

1 DR. BROMLEY: Yes.

2 MR. BENTON: To come up with a proposal for
3 how to resolve that concern and bring it here at some
4 point and you need to tell us when.

5 DR. BROMLEY: Tomorrow morning.

6 MR. BENTON: It better not be at 8:00 a.m.

7 DR. BROMLEY: Tomorrow morning.

8 MR. BENTON: It is a little too early given
9 the dinner tonight.

10 DR. BROMLEY: Okay. 8:05. That is precisely
11 what I asked, David. I want a list. It seems to me
12 who have the concerns should have the opportunity -- I
13 won't call it a burden -- should have the opportunity to
14 tell us what that list is. That is what I am asking
15 for. So we will know the scope of what work we have to
16 do.

17 Bob Bendick.

18 MR. BENDICK: You know, I think you have just
19 said it. The people who have a problem have an
20 obligation, by first thing tomorrow morning, to say
21 what the obligation is if it is an obstacle to our
22 moving forward. I don't think we can deal with this by

1 constantly changing lists of concerns. It is time for
2 people to come forward and say what their concerns are
3 and then we can try and deal with them one at a time in
4 several different ways.

5 DR. BROMLEY: And in a sense, if I may, Bob,
6 what I meant was which of these concerns would they be
7 happy to have show up in the unresolved issue section
8 of our report and which ones do they want to work hard
9 on and maybe have them be deal breakers. That is the
10 clarification I would like for the morning.

11 George is next. Who is next. Mike? Mike
12 Nussman.

13 MR. NUSSMAN: I think that clarification is
14 helpful in understanding what your plan was.

15 DR. BROMLEY: I am sorry I didn't articulate
16 it well.

17 Max.

18 MR. PETERSON: I would just suggest that
19 maybe -- I think Wally has been very helpful in several
20 aspects of the report and I think maybe a few people
21 that share his interest ought to convene with him and
22 see if they can come up with something in the morning

1 because I do think we need something and I would
2 certainly hope that we don't end up with six or eight
3 unresolved issues, particularly when I think they are
4 not that difficult to resolve.

5 DR. BROMLEY: Yes.

6 MR. PETERSON: So Wally, I think in good
7 faith, we ought to help you -- I am already on one
8 subcommittee.

9 DR. PEREYRA: I will certainly give it a good
10 college try.

11 MR. PETERSON: Good.

12 DR. BROMLEY: That is all I ask. That would
13 be marvelous. Okay. And then in the morning, we will
14 start with Bonnie's committee and then we will go to
15 this other group. We will call it the Wally group.

16 Rod.

17 DR. FUJITA: Thank you, Mr. Chairman. Just so
18 I am clear, having heard this discussion, I am very
19 heartened. I am willing to work with Wally and others
20 to try to resolve the cost benefit issue if they think
21 it can be done so. I think where we are -- in my view,
22 we have resolved the access language issue with our

1 compromised language.

2 DR. BROMLEY: Yes. I misspoke. It is the
3 definition.

4 DR. FUJITA: So that is done.

5 DR. BROMLEY: We have the authorities language
6 from Max and --

7 DR. FUJITA: Yes. We have a proposed solution
8 for authorities. So that is on its way.

9 DR. BROMLEY: Yes.

10 DR. FUJITA: The other two that we haven't
11 talked about yet are defining harm and the proposal to
12 exempt energy use. And I think that the proposal to
13 exempt energy use we could probably deal with, but
14 defining harm I think is a bigger issue.

15 DR. BROMLEY: Yes. Well, maybe, you know,
16 when people went around and expressed their concerns,
17 maybe I was -- maybe my list is longer than yours, Rod.
18 I heard a number of, shall I say, concerns. I won't
19 call them grievance issues. Maybe there was some
20 repetition there.

21 Kay. Yes, Kay.

22 MS. WILLIAMS: Yes. Thank you, Mr. Chairman.

1 I think my issues can be resolved. My issues was
2 needing to hear more discussion such as in reading the
3 document, I felt that if the funding wasn't there, we
4 wouldn't have MPA. I support MPA's. I support no-take
5 MPA's, but if we are saying the funding has to be there
6 before we can have them, then I had a problem with
7 that. So that is why I think this discussion around
8 the table helped clarify our intent.

9 DR. BROMLEY: Yes. Good. Thank you, Kay. I
10 mean, if we are not strong enough in here about the
11 need for funding, then that is an easy thing to fix. I
12 can't imagine anybody being opposed to asking for more
13 money. Right? Lauren.

14 MS. WENZEL: This is just a process
15 suggestion. I think there probably were a couple of
16 more issues than the ones Rod -- in fact, I know one
17 was about the access discussion about objectives and
18 some people feeling that there was a lack of clarity
19 there.

20 DR. BROMLEY: Yes.

21 MS. WENZEL: And I know, you know, we are
22 running out of time now and people do need to eat and

1 sleep. So one thing I was going to suggest is that
2 perhaps we could meet in the morning at our scheduled
3 time at 8:00 and kind of just organize the issues that
4 we have laid out today.

5 DR. BROMLEY: Take stock.

6 MS. WENZEL: Figure out kind of who is going
7 to take lead and maybe then break and caucus so that
8 people could work out some solutions and then come back
9 later in the morning.

10 DR. BROMLEY: That is good too.

11 MR. PETERSON: That is a good idea.

12 DR. BROMLEY: Yes. All right. Is there a
13 sense that you would like to get out of this room?
14 Okay. Lauren has to say something.

15 MS. WENZEL: This is about food.

16 DR. BROMLEY: Food.

17 MS. WENZEL: We have a shuttle that can
18 take -- there are 27 people that are going to dinner,
19 which is great, and the shuttle can take 12 people.
20 And I think -- I was going to ask if people could share
21 rides or, you know, we could have a, what, limited
22 entry system.

1 (Laughter.)

2 MS. WENZEL: So I was just going to ask for a
3 show of hands of people who have cars and can -- and
4 are going to dinner, if they could give people a ride.

5 Okay. I have got one, two, three, four, five. Okay.

6 So it looks like we have enough folks to give rides as
7 well and I would just suggest that people meet in the
8 lobby in, say, 15 minutes, about 20 of, and we can all
9 take a break.

10 (Whereupon at 5:25 p.m., the meeting was
11 adjourned to reconvene at 8:00 a.m. on Wednesday,
12 May 18, 2005.)

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